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INDEX

SECOND SESSION

THIRTY-THIRD PARLIAMENT

PUBLIC BILLS (GOVERNMENT)

LEGISLATIVE ASSEMBLY
OF THE
PROVINCE OF ONTARIO

BILLS

**AS INTRODUCED IN THE HOUSE
TOGETHER WITH
REPRINTS AND THIRD READINGS**

SESSION

APRIL 22, 1986 to JULY 10, 1986

and

OCTOBER 14, 1986 to DECEMBER 18, 1986

and

JANUARY 12, 1987 to FEBRUARY 12, 1987

SECOND SESSION
THIRTY-THIRD PARLIAMENT

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Bill 140

An Act to amend the Legislative Assembly Retirement Allowances Act

Mr. McLean

1st Reading October 21st, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to suspend retirement allowances while a person entitled thereto is receiving compensation for acting as a member of a board, commission or other body holding office at the nomination of the Lieutenant Governor in Council.

Bill 140**1986**

**An Act to amend the
Legislative Assembly Retirement Allowances Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Legislative Assembly Retirement Allowances Act*, being chapter 236 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

33. An allowance under this Act shall be suspended while the person entitled thereto is a member of any commission, board, committee or other body holding office at the nomination of the Lieutenant Governor in Council for which any salary, fee or compensation is paid. Suspension
of
allowance

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Legislative Assembly Retirement Allowances Amendment Act, 1986*. Short title

Bill 141

An Act to amend the Public Service Superannuation Act

Mr. McLean

1st Reading October 21st, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to suspend superannuation allowances while a person entitled thereto is receiving any salary, fee or compensation from the Province of Ontario.

Bill 141

1986

**An Act to amend the
Public Service Superannuation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

44. A superannuation allowance under this Act shall be suspended while the person entitled thereto, Suspension
of super-
annuation
allowance

(a) is a member of any commission, board, committee or other body holding office at the nomination of the Lieutenant Governor in Council for which any salary, fee or compensation is paid; or

(b) is employed in the public service.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Public Service Superannuation Amendment Act, 1986*. Short title

Bill 142

An Act to amend the Ontario Energy Board Act

The Hon. V. Kerrio
Minister of Energy

1st Reading October 23rd, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTIONS 1 and 2. These amendments are consequential on the repeal of section 26 of the Act by section 3 of the Bill and the addition of a new Part I-A of the Act by section 4 of the Bill.

SECTION 3. Section 26 of the Act places restrictions on the disposition, by sale, lease or otherwise, of a gas utility and on the acquisition by any person of more than 20 per cent of its shares; these restrictions, somewhat expanded, are now found in section 37b of the Act, as set out in section 4 of the Bill.

SECTION 4. Part I-A is added to the Act to set rules of conduct for gas utilities. New section 37a defines the various terms set out therein, for the purposes of the Part.

New section 37b contains substantially the provisions now found in section 26 of the Act; clause (1) (c) is new, as is subsection (5), permitting the Board to dispense with a public hearing where warranted and subsection (6), authorizing the imposition of terms and conditions.

New section 37c requires that the majority of the directors of a gas utility be not directors, officers or employees of any associate of the utility; this section does not come into force until July 1st, 1987, in order to give time to achieve compliance.

New section 37d requires a utility to file quarterly with the Board a report of all affiliated transactions that occurred in the preceding quarter; the Board is empowered to require the utility to furnish further information or documentation in respect of any such transaction.

New section 37e prohibits a utility from engaging in or investing in another type of business without the approval of the Board; a two-year period is allowed for the utility to either divest itself of the prohibited business or investment or obtain the approval of the Board to its continuance, if such business was entered into between April 9, 1986 and the day upon which this Act receives Royal Assent. The section does not apply to a business entered into prior to April 9, 1986.

New section 37f sets out various matters or activities prohibited to a gas utility without the approval of the Board and is designed to insulate the utility from involvement in, and the risks attendant upon, non-utility business and activities.

New section 37g empowers the Board to impose terms and conditions to an approval granted by the Board under section 37e or 37f and sets out matters to be considered by the Board when determining whether to grant approval under those sections and when determining whether to recommend the leave of the Lieutenant Governor in Council be given under section 37b.

New section 37h provides for investigation by the Board into alleged contraventions of the provisions of the new Part I-A and for an application to the Supreme Court by the Minister for an order, where appropriate, restraining any such contravention or declaring void any transaction entered into in contravention of the Part.

New section 37i provides that an undertaking given by any person in respect of a gas utility prior to the coming into force of the new Part I-A, if inconsistent with any provision of that Part, is of no force or effect; in addition the Board is empowered to dispense with compliance with all or part of such an undertaking if the Board is of the opinion it would be consistent with the public interest to do so.

SECTION 5. The Act, except for the provision respecting directors set out in new section 37c, is deemed to have come into force on April 9th, 1986.

Bill 142**1986****An Act to amend the Ontario Energy Board Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 13 (2) of the *Ontario Energy Board Act*, being chapter 332 of the Revised Statutes of Ontario, 1980, is amended by striking out "section 26" in the first line and inserting in lieu thereof "section 37b".

2. Subsection 15 (3) of the said Act is amended by inserting after "section 23" in the second line "section 37b".

3. Section 26 of the said Act is repealed.

4. The said Act is amended by adding thereto the following Part:

PART I-A**CONTROL AND CONDUCT OF UTILITIES**

37a. In this Part,

Definitions

"affiliated transaction" means any transaction or transfer or exchange of goods, services or information, whether or not for consideration, between a gas utility and any associate of the gas utility, and includes the provision of a benefit by a gas utility to an associate;

"associate", when used to indicate a relationship with a person, means,

- (a) any person who controls such person,
- (b) any person whom the person controls,
- (c) another person who is controlled by a person who also controls such person,

- (d) a partner of that person acting by or for the partnership of which they are both partners,
- (e) a trust or estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity,
- (f) a person of the opposite sex to whom the person is married or with whom the person is living in a conjugal relationship outside marriage,
- (g) a son or daughter of the person,
- (h) a relative of the person or of a person mentioned in clause (f), other than a person referred to in clauses (f) and (g), who has the same home as the person, or
- (i) any person who is obliged to act in concert with such person in exercising voting rights in respect of the shares of a company;

“control”, “controlled” and “controlling”, in respect of a person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, whether through ownership of voting securities or by contract or otherwise;

“gas utility” means a person who supplies natural gas to a consumer in Ontario or a person who carries gas by a transmission line in Ontario;

“security” includes any share of any class or series of shares and any debt obligation, other than one which is payable in full within two years of its creation, of a body corporate;

“voting share” means any security carrying a voting right under all circumstances or which is convertible into or may be exchanged for such a security.

Leave of
L.G. in C.

37b.—(1) No gas utility, without first obtaining the leave of the Lieutenant Governor in Council, shall,

- (a) sell, lease, convey or otherwise dispose of its transmission, distribution or storage system, or any part thereof that is used or useful in serving the public, as an entirety or substantially as an entirety;
- (b) merge or amalgamate, or otherwise combine directly or indirectly, with any other company; or

- (c) alone or in conjunction with any associate acquire or hold more than 5 per cent of the voting shares of another gas utility or of a person who controls another gas utility.

(2) No person, without first obtaining the leave of the Lieutenant Governor in Council, shall acquire such number of voting shares of a gas utility that together with shares already held by such person or by such person and an associate or associates of such person will in the aggregate exceed 20 per cent of the voting shares outstanding of that gas utility.

Acquisition
of share
control

(3) Clause (1) (a) does not apply to a mortgage or charge to secure any loan or indebtedness or to secure any bond, debenture or other evidence of indebtedness.

Mortgages

(4) An application for leave under this section shall be made to the Board, which shall hold a public hearing and submit its report and opinion with respect to the application to the Lieutenant Governor in Council.

Public
hearing

(5) Notwithstanding subsection (4), the Board may dispense with the holding of a public hearing if, after giving or causing to be given public notice of its intention to do so, it is satisfied that the circumstances of the case so warrant and that the dispensation will not adversely affect the public interest.

Dispensing
with public
hearing

(6) Any leave granted under this section may be made subject to such terms and conditions as in the opinion of the Lieutenant Governor in Council are required in the public interest.

Terms and
conditions

37c. The majority of the members of the board of directors of a gas utility shall be persons who are not directors, officers or employees of an associate of the gas utility.

Directors

37d. A gas utility shall quarterly file with the Board a report of all affiliated transactions which took place in the immediately preceding quarter, together with such information and documentation relative thereto as the Board requires all of which shall be made public by the Board.

Filing
accounts of
affiliated
transactions

37e.—(1) A gas utility shall not itself or through a person it controls engage or invest in any business other than that of a gas utility without the prior approval of the Board.

Engaging
in another
business

(2) Subsection (1) shall not apply in respect of a business in which a gas utility was engaged on the 9th day of April, 1986 or to an investment made by the gas utility prior to that date.

Non-
application
of subs. (1)

Saving

(3) Where, subsequent to the 9th day of April, 1986 and prior to the day this Act receives Royal Assent, a gas utility engages or invests in a business that requires the approval of the Board under subsection (1), the gas utility may continue the business or investment for a period of two years from the 9th day of April, 1986, without the approval of the Board.

Where approval of Board required

37f. A gas utility shall not, without the prior approval of the Board, directly or indirectly,

- (a) advance funds or otherwise confer a benefit to or to the order of or for the benefit of an associate;
- (b) acquire or pay for securities of or held by an associate;
- (c) become responsible for the indebtedness or obligations of any person; or
- (d) pay a dividend, or take other action such as redemption or purchase of shares for cancellation, which will result in the common equity component of the gas utility's capital structure falling, and remaining for a period of in excess of ninety days, below the level approved or considered appropriate by the most recent applicable decision of the Board.

Terms and conditions

37g.—(1) The approval of the Board under section 37e or 37f may be made subject to such terms and conditions as in the opinion of the Board are reasonably required in the public interest.

Matters taken into account by Board

(2) The Board, in considering,

- (a) under subsection 37b (4) whether to recommend approval and, if so, whether to recommend the attachment of terms and conditions thereto; and
- (b) under section 37e or 37f whether to grant approval and, if so, whether to attach terms and conditions thereto,

shall take into account all such matters as to it appear relevant, including, but not limited to,

- (c) whether the activity or transaction raises actual or potential conflicts of interest with the gas utility business;

- (d) the extent to which the gas utility business and gas utility customers will be protected from potential adverse consequences of the proposed activity or transaction;
- (e) whether the activity or transaction would likely result in the control of a gas utility by a person or persons not ordinarily resident in Canada;
- (f) the potential impact of the proposed activity or transaction on the cost and quality of gas utility service to customers;
- (g) the potential impact of the proposed activity or transaction on the availability and cost of capital for gas utility purposes;
- (h) the potential for inappropriate diversion to non-utility purposes of gas utility assets including cash, human and management resources and information;
- (i) the accounting for and allocation of costs and benefits as between utility and non-utility businesses, and the ease and effectiveness with which the Board will be able to monitor the same;
- (j) the relationship of a proposed new activity or investment to the gas utility business; and
- (k) any public interest that in the Board's opinion may be affected by the granting or the refusing of the application.

37h.—(1) The Board shall monitor compliance by gas utilities with the provisions of this Part. Monitoring
by Board

(2) The Board of its own motion may, and at the request of the Minister shall, investigate and report to the Minister regarding instances of alleged contravention of the provisions of this Part or of any terms and conditions imposed thereunder. Investigation
by Board

(3) On application to the Supreme Court made on behalf of the Minister, the Court may make such order as may be necessary to prevent the furtherance or the continuance of a contravention of a provision of, or a term or condition made under, this Part or to declare null and void a transaction entered into in contravention thereof. Application
to Supreme
Court

Other
remedies
not affected

(4) Nothing in subsection (2) or (3) limits any remedy that may be available at law to any person or limits the Board in any remedy or course of action otherwise available to the Board under this Act, for a contravention of the provisions of this Part.

Definition

37i.—(1) In this section, “undertaking” means an undertaking in writing given by a person in respect of a gas utility to the Lieutenant Governor in Council before the day this Part comes into force.

Where
undertaking
inconsistent
with
Part I-A

(2) To the extent that an undertaking is inconsistent with any of the provisions of this Part, the undertaking shall be deemed to be of no force or effect.

Power of
Board to
dispense with
compliance
with
undertaking

(3) The Board may, by order, subject to the provisions of this Part, dispense with compliance in whole or in part with an undertaking, if in the opinion of the Board to do so would be consistent with the public interest.

Commence-
ment

5.—(1) This Act, except section 37c of the said Act, as enacted by section 4 of this Act, shall be deemed to have come into force on the 9th day of April, 1986.

Idem

(2) Section 37c of the said Act, as enacted by section 4 of this Act, comes into force on the 1st day of July, 1987.

Short title

6. The short title of this Act is the *Ontario Energy Board Amendment Act, 1986*.

Bill 143

An Act to prevent unjust enrichment through the Financial Exploitation of Crime

Ms. Gigantes

<i>1st Reading</i>	October 28th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

The Bill makes moneys earned by accused criminals from the sale of their memoirs payable to the Criminal Injuries Compensation Board, which uses the funds received in each case to satisfy judgments obtained by victims of the crime.

Bill 143

1986

An Act to prevent unjust enrichment through the Financial Exploitation of Crime

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the Criminal Injuries Compensation Board established under the *Compensation for Victims of Crime Act*;

R.S.O. 1980,
c. 82

“broadcast” means information transmitted by cables, wires, fibre-optic linkages, laser beams or any form of wireless radioelectric communication employing Hertzian waves;

“person accused or convicted of a crime” includes,

- (a) a person who has been charged with a crime,
- (b) a person who has been convicted of a crime, and
- (c) a person who has admitted the commission of a crime for which the person has not been prosecuted;

“victim” means a person who suffers injury, damage or pecuniary loss as a direct result of a crime.

2.—(1) Every person who makes an agreement with a person accused or convicted of a crime, or with the person’s agent or assignee, with respect to a book, magazine or newspaper article, broadcast, tape recording, phonograph recording, video recording, live presentation or other representation based upon or concerning the crime shall,

Payments
to Board

- (a) provide the Board with a copy of the contract; and

- (b) pay to the Board any moneys which would, under the contract, be payable to the person accused or convicted of the crime, his agent or nominee.

List to
be public

(2) The Board shall maintain a complete list of all persons in respect of whom it receives moneys under section 2 and shall make the list available to the public upon request.

Board to
hold funds

3.—(1) The Board shall hold all moneys received under section 2 in a special account, which may be an interest-bearing account, shall keep full records as to their source and disbursement and shall deal with the moneys in accordance with this Act.

Interest

(2) Interest earned on moneys received under section 2 forms part of the moneys to be dealt with by the Board in accordance with this Act.

Notice
to victims

4.—(1) Where the Board first receives moneys under section 2 in respect of a particular crime, it shall publish, in a newspaper circulated in the community where the crime was committed or alleged to have been committed, at least once every week for four weeks, a notice advising victims of the crime that it holds the moneys and of their rights under this Act.

Idem

(2) The Board may give such further notice to victims as it considers advisable.

Victim
may sue
1986, c. 4
R.S.O. 1980,
c. 240

5.—(1) Despite subsection 61 (4) of the *Family Law Act*, 1986 and section 45 of the *Limitations Act*, a victim may bring an action for the recovery of damages against the person accused or convicted of the crime within five years after the date on which the Board first received moneys under section 2 in respect of the crime.

Notice
to Board

(2) A victim who commences an action for damages against the person accused or convicted of the crime shall provide the Board with a copy of the statement of claim.

Payment
to victim

6.—(1) Where a victim obtains judgment in an action for damages commenced against the person accused or convicted of the crime, the Board, after a day five years and six months after the day the Board first received moneys under this Act, shall pay the amount of the judgment and costs to the victim from the funds it holds under this Act.

Action for
damages

(2) Where, on the day named in subsection (1), the Board has notice that a victim has commenced an action for damages against the person accused or convicted of the crime and that

the action has not been finally disposed of, the Board shall not make a payment under subsection (1) until the action has been finally disposed of.

(3) Where the aggregate amount of judgments and costs in respect of a particular crime exceeds the moneys received by the Board in respect of the crime, the Board shall distribute the moneys to the victims on a *pro rata* basis.

When funds insufficient

7.—(1) Where, on a day five years and six months after the day the Board first received moneys under this Act in respect of a particular crime, the Board has not been notified of an action commenced against the person accused or convicted of the crime during the five-year period described in subsection 5 (1), the Board shall release the moneys to the person accused or convicted of the crime.

Release of funds where no victim sues

(2) Where, after the Board has paid the full amounts of all judgments and costs payable to victims of a particular crime in accordance with this Act, the Board retains a balance of moneys received in respect of the crime, the Board shall pay the balance to the person accused or convicted of the crime.

Balance after judgments satisfied

8. Every person who contravenes section 2 of this Act is guilty of an offence and upon conviction is liable to a fine not exceeding \$5,000.

Penalty

9. Nothing in this Act affects the power of the Board to award compensation to a victim under the *Compensation for Victims of Crime Act*.

Board's power under R.S.O. 1980, c. 82

10. This Act comes into force on the day it receives Royal Assent.

Commencement

11. The short title of this Act is the *Profits from Crime Act, 1986*.

Short title

Bill 144

An Act to amend the Pension Benefits Act

Mr. Mackenzie

<i>1st Reading</i>	October 28th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

4-11723

EXPLANATORY NOTE

The new section prevents an employer from taking money out of a pension plan or discontinuing payments into the plan where there is a surplus of money in the plan.

Bill 144

1986

An Act to amend the Pension Benefits Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

23a.—(1) The assets and earnings of a pension plan shall be deemed to be held in trust for the members of the pension plan and no part of those assets or earnings shall be paid to the benefit of the employer either during the term of the pension plan or upon its termination or winding up.

Assets of
plan to
benefit
members
only

(2) An employer is not relieved of the obligation to pay money into a pension plan by reason only that the assets and earnings of the pension plan exceed its liabilities.

Contributions
to continue,
notwith-
standing
surplus

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Pension Benefits Amendment Act, 1986*.

Short title

Bill 145

An Act to make mandatory the use of Running Lights on Motor Vehicles at all Times on the Highway

Mr. Sterling

<i>1st Reading</i>	October 29th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

Self-Explanatory

Bill 145

1986

**An Act to make mandatory the use of Running Lights
on Motor Vehicles at all Times on the Highway**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

1. Subsection 44 (1) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 61, section 2, is repealed and the following substituted therefor:

(1) When on a highway at any time, every motor vehicle other than a motorcycle shall carry three lighted lamps in a conspicuous position, one on each side of the front of the vehicle which shall display a white or amber light only and one on the rear of the vehicle which shall display a red light only.

Lamps
required
on all motor
vehicles
except
motorcycles

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Highway Traffic Amendment Act, 1986*.

Short title

Bill 146

An Act to change the name of the geographic township of Stalin to the geographic township of Hansen

Mr. Shymko

1st Reading October 29th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

Self-explanatory.

Bill 146**1986**

**An Act to change the name of
the geographic township of Stalin
to the geographic township of Hansen**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The name of the geographic township of Stalin in the Territorial District of Sudbury is hereby changed to the geographic township of Hansen.

2. Any reference to the geographic township of Stalin in any Act, regulation, by-law, agreement or other document passed, made, entered into or executed before this Act comes into force shall be deemed to be a reference to the geographic township of Stalin.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Geographic Township of Hansen Act, 1986*. Short title

Bill 146

*(Chapter 52
Statutes of Ontario, 1986)*

An Act to change the name of the geographic township of Stalin to the geographic township of Hansen

Mr. Shymko

<i>1st Reading</i>	October 29th, 1986
<i>2nd Reading</i>	November 6th, 1986
<i>3rd Reading</i>	November 6th, 1986
<i>Royal Assent</i>	November 18th, 1986

Bill 146**1986.**

**An Act to change the name of
the geographic township of Stalin
to the geographic township of Hansen**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The name of the geographic township of Stalin in the Territorial District of Sudbury is hereby changed to the geographic township of Hansen.

2. Any reference to the geographic township of Stalin in any Act, regulation, by-law, agreement or other document passed, made, entered into or executed before this Act comes into force shall be deemed to be a reference to the geographic township of Hansen.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Geographic Township of Hansen Act, 1986.* Short title

Bill 147

An Act to amend the Barristers Act

The Hon. I. Scott

Attorney General

1st Reading November 4th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTIONS 1 and 2. The provisions repealed provide for the appointment of Queen's counsel and their precedence in the courts.

SECTION 3. The common law office of Queen's counsel and the use of the title in the practice of law in Ontario are abolished.

Bill 147

1986

An Act to amend the Barristers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of the *Barristers Act*, being chapter 38 of the Revised Statutes of Ontario, 1980, is repealed.

2. Subsection 3 (3) of the said Act is repealed.

3. The said Act is amended by adding thereto the following sections:

4.—(1) The office of Her Majesty's counsel learned in the law, or Queen's counsel, is abolished. Q.C.'s
abolished

(2) All letters patent appointing members of the bar of Ontario to be Her Majesty's counsel learned in the law are cancelled. Patents
cancelled

5.—(1) No person shall represent himself or herself to be one of Her Majesty's counsel learned in the law, or Queen's counsel, or other like designation, in the practice of law in Ontario. Use of
designation

(2) Subsection (1) comes into force on the 1st day of September, 1987. Effective
date

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment

5. The short title of this Act is the *Barristers Amendment Act, 1986*. Short title

Bill 148

An Act to amend the Representation Act, 1986

Mr. Villeneuve

<i>1st Reading</i>	November 17th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

BILL 1-2

EXPLANATORY NOTE

Self-explanatory.

Bill 148**1986****An Act to amend the Representation Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Schedule to the *Representation Act, 1986*, being chapter 30, is amended by renaming "THE ELECTORAL DISTRICT OF STORMONT, DUNDAS AND GLENGARRY" as "THE ELECTORAL DISTRICT OF STORMONT, DUNDAS, GLENGARRY AND EAST GRENVILLE".

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Representation Amendment Act, 1986*. Short title

Bill 149

An Act to amend the Occupational Health and Safety Act

Mr. Martel

1st Reading November 18th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to provide greater protection for the health and safety of workers. Persons who were formerly excluded from the protection of the Act would now be covered by the repeal of subsections 3 (2) and (3), 8 (1), 23 (1) and (2).

SECTION 2. This section makes substantial changes to section 8 of the Act to give increased powers to the health and safety committee which would be composed of a majority of worker representatives.

SECTION 3. This amendment sets out in detail the nature of information that must be provided by the Director.

SECTION 4. This amendment clarifies that any protective equipment, material or devices must be provided at the expense of the employer.

SECTION 5. This section makes substantial changes to section 15 of the Act to impose increased duties on an employer in respect of health and safety matters.

SECTION 6. These amendments to section 23 of the Act provide greater protection for the worker when faced with a threat to his or her safety or health.

SECTION 7. The effect of this amendment is to permit a union representative, a worker health and safety representative or any interested person to file a complaint where there has been a reprisal against a worker. At present, only the worker may file a complaint.

SECTION 8. This amendment would designate an inspector as a provincial offences officer in respect of certain specified violations of the Act.

SECTION 9. This amendment increases the regulation-making powers of the Lieutenant Governor in Council.

Bill 149

1986

**An Act to amend the
Occupational Health and Safety Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (2) and (3) of the *Occupational Health and Safety Act*, being chapter 321 of the Revised Statutes of Ontario, 1980, are repealed.

2.—(1) Subsection 8 (1) of the said Act is repealed.

(2) Subsection 8 (5) of the said Act is amended by striking out “two persons of whom at least half” in the first and second lines and inserting in lieu thereof “three persons of whom the majority”.

(3) Subsection 8 (6) of the said Act is repealed and the following substituted therefor:

(6) It is the function of a committee and it has power to,

Powers of
committee

- (a) identify situations that may be a threat to the health or safety of workers and require an owner, constructor or employer to take adequate measures to remove the threat;
- (b) conduct tests as to the work place conditions at the expense of the employer;
- (c) hire independent agencies to conduct tests as to the work place conditions at the expense of the employer but any such agents shall be accompanied by a worker health and safety representative or a worker member of the health and safety committee;
- (d) approve any machinery, chemicals or innovations before they are introduced into the work place;

- (e) approve all protective devices used or worn in the work place by the workers;
- (f) conduct all assessments and develop all control programs that may be required in regulations related to designated substances;
- (g) establish programs to educate and train workers in health and safety procedures;
- (h) upon the request of the workers, establish a voluntary medical monitoring program to be accompanied by work place monitoring at the expense of the employer;
- (i) obtain information from the constructor or employer respecting,
 - (i) the identification of potential or existing hazards of materials, processes or equipment, and
 - (ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge.

(4) Subsection 8 (8) of the said Act is amended by striking out "not more often than" in the third and fourth lines and inserting in lieu thereof "at least".

(5) Subsection 8 (9) of the said Act is repealed and the following substituted therefor:

Power to
inspect

(9) The members of a committee who represent workers shall designate one or more such members to investigate cases where a dangerous situation has been reported by a worker or where a worker is killed or injured at a work place from any cause and one of those members may, subject to subsection 25 (2), inspect the place where the accident occurred and any machine, device or thing, and shall report his or her findings to a Director and to the committee.

(6) Subsection 8 (12) of the said Act is repealed and the following substituted therefor:

Time off
for duties

(12) A member of a committee is entitled to such time from work as is necessary to perform and discharge his or her duties under this Act including but not limited to,

- (a) collecting data;
- (b) taking test samples;
- (c) preparing for and attending committee meetings;
- (d) inspecting documents;
- (e) attending training sessions; and
- (f) investigating worker complaints and work place accidents,

and the time so spent shall be deemed to be work time for which the worker is paid at the regular or premium rate, as applicable.

(7) Subsection 8 (13) of the said Act is repealed and the following substituted therefor:

(13) No committee dealing with occupational health and safety issues shall be established or continued in a work place unless, Other committees

- (a) the committee consists of at least two persons of whom at least half shall be workers who do not exercise managerial functions to be selected by the workers they are to represent or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions;
- (b) the approval of the joint health and safety committee is obtained; and
- (c) the committee takes its directions from and reports to the health and safety committee.

(8) Section 8 of the said Act is amended by adding thereto the following subsection:

(15) Employers, supervisors and workers shall answer all questions and provide any information required for the purpose of carrying out an investigation under subsection (9). Duties during investigation

3. Section 9 of the said Act is amended by adding thereto the following subsection:

(4) The information referred to in subsection (3) includes all government-conducted tests, studies, reports and correspondence related to work place health and safety. Nature of information

4. Clause 14 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) the equipment, materials and protective devices as prescribed are provided at the expense of the employer.

5.—(1) Subsection 15 (1) of the said Act is amended by striking out “and” at the end of clause (h) and by adding thereto the following clauses:

- (j) provide, at the employer's expense, office space, equipment and clerical assistance to enable the health and safety committee to carry out their functions;
- (k) provide, at the employer's expense, at least one week per year time off for worker representatives and worker members of the health and safety committee to receive training in occupational health and safety measures;
- (l) provide, at the employer's expense and during working hours, the opportunity for probationary workers to receive education and training in health and safety by a worker representative; and
- (m) bear the cost of any medical monitoring program including compensating a worker for the time spent visiting his or her doctor and any expense incurred in the course of the visit.

(2) Section 15 of the said Act is amended by adding thereto the following subsections:

Reassignment

- (3) An employer shall ensure that a worker does not suffer any wage loss as a result of being reassigned other duties for health reasons.

Alternative work

- (4) Where a reassignment is not possible, an employer shall, at the employer's expense, retrain workers and find them alternative work elsewhere and make up for any wage loss that results from such transfer.

6.—(1) Subsection 23 (1), as amended by the Statutes of Ontario, 1984, chapter 55, section 224, and subsection (2) of the said Act are repealed.

(2) Subsection 23 (3) of the said Act is repealed and the following substituted therefor:

(3) A worker may refuse to work or do particular work where the worker has reason to believe that his or her health or safety or that of any person is in danger for whatever cause.

Refusal
to work

(3) Section 23 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 55, section 224, is further amended by adding thereto the following subsection:

(5a) A worker representative on the health and safety committee may,

Powers of
worker
representa-
tives

- (a) exercise, on behalf of the worker, his or her right to refuse to work under dangerous conditions; and
- (b) order that unsafe operations be shut down where it appears that the health or safety of a worker is threatened.

(4) Subsection 23 (6) of the said Act is repealed and the following substituted therefor:

(6) Where, following the investigation or any steps taken to deal with the circumstances that caused the worker to refuse to work or do particular work, the worker has reasonable grounds to believe that his or her health or safety continues to be endangered for whatever cause, the worker may refuse to work or do the particular work and the employer or worker or a person on behalf of the employer or worker shall notify an inspector thereof.

Refusal to
work after
investigation

(5) Section 23 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 55, section 224, is further amended by adding thereto the following subsections:

(6a) All workers affected by a work stoppage under this section are entitled to full wages and benefits during the work stoppage.

Wages
payable
during work
stoppage

(6b) Any loss of production or revenue that results from a work stoppage under this section shall be borne by the employer.

Loss from
work
stoppage

7. Subsection 24 (2) of the said Act is amended by inserting after "worker" in the first line "union representative, worker health and safety representative, or any interested party".

8. Section 28 of the said Act is amended by adding thereto the following subsection:

Inspector
designated
provincial
offences
officer
R.S.O. 1980,
c. 400

(1a) An inspector is designated as a provincial offences officer under the *Provincial Offences Act* and may issue a certificate of offence under that Act in respect of the following offences, namely,

- (a) failure to establish a health and safety committee under subsection 8 (2);
- (b) failure to post a copy of this Act as required under clause 14 (2) (h); or
- (c) failure to provide the information required under clause 8 (6) (i) or the report required under section 25 or 26.

9. Subsection 41 (2) of the said Act is amended by striking out “and” at the end of paragraph 22 and by adding thereto the following paragraphs:

- 24. establishing time limits for an employer to comply with recommendations made by the health and safety committee;
- 25. prescribing a code of practice respecting the procedure of a health and safety committee;
- 26. establishing a joint committee composed of representatives of management and labour to recommend changes to the regulations.

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. The short title of this Act is the *Occupational Health and Safety Amendment Act, 1986*.

Bill 150

An Act to regulate Truck Transportation

The Hon. E. Fulton

Minister of Transportation and Communications

1st Reading November 19th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill introduces reform of the regulation of for hire trucking in Ontario. The new Act will replace the *Public Commercial Vehicles Act* and is complemented by the *Highway Traffic Amendment Act, 1986* and the *Ontario Highway Transport Board Amendment Act, 1986*.

The Bill changes the entry test from an examination of the need for additional service to an examination of the fitness of the applicant.

In order to obtain a licence under the new Act, all applicants must pass a fitness test. At the time of the application, the applicant or an employee must hold a Certificate of Competency which will be obtained by passing a written test. This test will cover that prospective truckers have knowledge of safe truck operation, trucking legislation, safety, insurance requirements and maintenance practices. Another factor will be the applicant's past performance record.

For the first five years, the fitness test will be supplemented by a public interest test. This test will take the form of a public hearing and will be used only when any interested party can demonstrate that granting the licence would have significant detrimental effect on the public interest.

The Bill also provides for the establishment of an Advisory Committee on Truck Transportation. The Minister will appoint members of the committee drawing from Government, the OHTB, shippers and carriers. The committee will advise the Minister on the effectiveness of the new Act and, in particular, on the need for continuing the public interest test beyond five years.

Bill 150

1986

An Act to regulate Truck Transportation

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Definitions

“Board” means the Ontario Highway Transport Board;

“commercial motor vehicle” means a motor vehicle with a permanently attached truck or delivery body and includes a truck tractor used for hauling purposes, but does not

include an ambulance, hearse, casket wagon, fire apparatus, bus or motor vehicle commonly known as a tow truck when the tow truck is being used as a tow truck;

“commercial vehicle” means,

R.S.O. 1980,
c. 198

- (a) a commercial motor vehicle or a combination of a commercial motor vehicle and trailer or trailers as defined in the *Highway Traffic Act*,
- (b) a dual-purpose vehicle or a combination of a dual-purpose vehicle and a trailer as defined in the *Highway Traffic Act*, or
- (c) the combination of a motor vehicle, as defined in the *Highway Traffic Act*, drawing a trailer or trailers, as defined in that Act;

“Committee” means the Advisory Committee on Truck Transportation;

“compensation” includes any rate, remuneration, reimbursement or reward of any kind paid, payable or promised, or received or demanded, directly or indirectly;

“dual-purpose vehicle” means a motor vehicle, other than one commonly known as a passenger car, designed by the manufacturer for the transportation of persons and goods;

“goods” includes all classes of materials, wares and merchandise and live stock;

“highway” means a highway as defined in the *Highway Traffic Act*;

“licensee” means the holder of an operating licence issued under this Act;

“Minister” means the Minister of Transportation and Communications;

“Ministry” means the Ministry of Transportation and Communications;

“officer” means a member of the Ontario Provincial Police Force or an officer of the Ministry designated in writing by the Minister to assist in the enforcement of this Act;

“operate” means to cause to be driven on a highway and
“operated” has a corresponding meaning;

“operating authority” means a specific authority to operate that is contained within an operating licence;

“operating licence” means an operating licence issued under this Act containing one or more operating authorities;

“owner” means the person in whose name the vehicle portion of a permit is issued for a motor vehicle under the *Highway Traffic Act*; R.S.O. 1980,
c. 198

“prescribed” means prescribed by the regulations;

“public truck” means a commercial motor vehicle or the combination of a commercial motor vehicle and trailer or trailers drawn by it, operated by the holder of an operating licence;

“regulations” means the regulations made under this Act;

“road construction materials” means rubble carried to or from a construction or demolition site and 01 928 — animal or poultry manure, 14 1 — dimension stone, quarry, 14 219 — broken or crushed stone or riprap, not elsewhere classified, excluding ground or otherwise treated, 14 41 — gravel or sand, excluding abrasive, 14 715 — rock salt, crude, crushed, lump or screened, excluding sodium chloride (common salt), 14 719 — chemical or fertilizer minerals, not elsewhere classified, excluding ground or otherwise treated, 14 919 — non metallic minerals, not elsewhere classified, loam, soil or topsoil, not elsewhere classified, excluding ground or otherwise treated at mine site or fuels, 28 126 32 — calcium chloride, liquid, 28 126 33 — calcium chloride, other than liquid, 28 181 7 — urea, other than liquor or liquid, 28 71 — fertilizers excluding milled, mined or otherwise prepared, natural boron, sodium or potassium compounds, 29 116 — asphalt pitches or tars, petroleum, coal tar, coke oven or natural gas, 32 952 15 — cinders, clay, shale (expanded shale), slate or volcanic (not pumice stone) or haydite, 33 112 — furnace slag, excluding ground or otherwise treated;

“STCC” means the Standard Transportation Commodity Code filed with the Canadian Transport Commission;

“STCC number” means a number in STCC representing the goods or materials classified under that number;

“toll” means any fee or rate charged, levied or collected for the transportation of goods in or on a public truck.

Idem

(2) Where, in this Act or the regulations, a reference to goods or materials is preceded by a STCC number, the goods or materials referred to are those indicated in the STCC by reference to that number.

Purpose

2. It is hereby declared that an effective goods movement system by highway is essential to advance the interests of the users of transportation and to maintain the economic well-being and growth of Ontario and that these objectives are to be achieved by the regulatory scheme established by this Act which is to be interpreted so as to advance the objective that the system will,

- (a) foster productive, fair and innovative competition and the existence of a dependable and viable trucking industry in furtherance of the public interest; and
- (b) be of benefit to the users of transportation services and not for the protection from competition of individual providers of such services.

Operating licence required to transport goods for compensation

3.—(1) No person shall operate a commercial vehicle to carry goods of any other person for compensation unless it is done,

- (a) under an operating licence held by the person operating the vehicle; and
- (b) pursuant to the licence.

General authority

(2) Every operating licence authorizes the holder thereof to carry 01 928 1 — unprepared manure from animal, bird, dog, fowl, goat, sheep or guano, 14 719 — chemical or fertilizer minerals, not elsewhere classified in STCC, 28 181 70 — urea, other than liquid and 28 71 — fertilizers in bulk to or from any point within Ontario during April, May and June in a commercial vehicle that is not a tank vehicle.

Owner-driver licence, single-source licence limitations

(3) An operating licence that is an owner-driver or single-source operating authority authorizes the operation of a commercial vehicle to carry goods for compensation only when a notice of the contract under which the particular vehicle is being operated has been filed with the Ministry as prescribed.

Exception

(4) Subsection (1) does not apply to prohibit the carriage of,

- (a) goods solely within a commercial zone designated under section 14 or an urban municipality;

- (b) fresh fruit and fresh vegetables grown in continental United States of America or Mexico;
- (c) goods used on farms and farm products that are 01 1 — field crops, 01 2 — fresh fruits or tree nuts, 01 3 — fresh vegetables, 01 91 — horticultural specialties, 01 99 — farm products, not elsewhere classified in STCC, 01 41 — live stock and 01 92 — animal specialties that are carried in a commercial motor vehicle equipped with not more than three axles that does not draw a trailer;
- (d) 01 421 10 — milk, fresh, unprocessed and 20 261 — bulk fluid milk, skim milk or cream carried on behalf of The Ontario Milk Marketing Board;
- (e) wheat by a person appointed to act as agent for the Ontario Wheat Producers' Marketing Board where the wheat is being carried from the agent's premises in a commercial vehicle registered in the agent's name;
- (f) ready mixed concrete;
- (g) 24 1 — primary forest or raw wood materials that are the products of the forest from which they are being carried;
- (h) goods carried by an operator of a commercial vehicle if the goods have been sold, bought, produced, transformed or repaired by, or have been lent, borrowed, given or leased by, the operator as an integral part of the operator's primary business which business is not the operation of public trucks;
- (i) goods in a bus being operated under the authority of an operating licence issued under the *Public Vehicles Act*; or
- (j) goods in a commercial vehicle on or before the 1st day of January, 1989, where the carriage would have been exempt under the *Public Commercial Vehicles Act*.

R.S.O. 1980,
c. 425

R.S.O. 1980,
c. 407

(5) Subsection (1) does not apply to a holder of a certificate of intercorporate exemption or any affiliated corporation named in the certificate carrying goods owned by any of them pursuant to the certificate.

Idem,
certificate of
intercorporate
exemption

Idem,
trip permit

(6) Subsection (1) does not apply to the holder of a trip permit operating the commercial vehicle specified therein in accordance with the permit.

Transportation
for
compensation

(7) Where goods are carried in a commercial vehicle that is not owned by the owner of the goods and compensation is received for the use of the vehicle other than in accordance with a lease of the vehicle, the goods shall be deemed to be carried for compensation.

Idem

(8) Where goods are carried in a commercial vehicle that is leased by the owner of the goods but the lessor of the vehicle, directly or indirectly,

- (a) engages or pays the driver of the vehicle;
- (b) exercises control over the driver of the vehicle in the course of his employment as driver; or
- (c) assumes responsibility for the goods,

the goods shall be deemed to be carried for compensation.

Definition,
lease

(9) For the purpose of this section, "lease" means a written agreement setting out fully and accurately all provisions under which the vehicle is leased and giving the lessee exclusive possession and control over the vehicle throughout the entire term of the agreement.

Offence

(10) Every person who contravenes subsection (1) is guilty of an offence and,

- (a) on the first conviction, is liable to a fine of not less than \$250 and not more than \$5,000; and
- (b) on each subsequent conviction, is liable to a fine of not less than \$500 and not more than \$5,000.

Idem

(11) For the purposes of subsection (10), a conviction that occurs more than five years after a previous conviction is not a subsequent conviction.

Minister to
issue licences

4.—(1) Operating licences shall be issued by the Minister in accordance with this Act and the regulations.

Special
licences

(2) The Minister may issue an operating licence containing a class of operating authority that is,

- (a) a single-source authority authorizing the licensee to provide,

(i) commercial vehicles of which the licensee is the owner or lessee, and

(ii) drivers for the vehicles referred to in subclause (i),

under one or more contracts; or

(b) an owner-driver authority authorizing the licensee to provide,

(i) one commercial vehicle of which the licensee is the owner or lessee, and

(ii) a driver for the vehicle referred to in subclause (i),

under one contract at any given time.

(3) No person shall hold,

Limit on
authorities

(a) more than one owner-driver authority at the same time; or

(b) an owner-driver authority and a single-source authority other than a single-source authority granted under section 8.

(4) The Minister, where it is in the public interest to do so, may grant a special authority to any licensee which, for the purpose of subsection 3 (1), shall be deemed to be part of that licensee's operating licence, subject to the conditions set out in the special authority, for seven days or such shorter time as is set out in the special authority.

Special
authority

(5) When granting an operating authority, the Minister may make the authority subject to such provisions and limitations as the Minister considers in the public interest, and, when there has been a public interest test hearing conducted by the Board, the Minister shall make the authority subject to such provisions and limitations as are recommended by the Board.

Subject to
limitations

(6) Provisions or limitations imposed under subsection (5) shall not serve to limit the number of commercial vehicles operated under an operating authority except where the authority is,

Exception

(a) a single-source authority;

(b) an owner-driver authority;

(c) granted after a hearing conducting a public interest test; or

(d) for the carriage of road construction materials,

and shall not be inconsistent with any provision in this Act or the regulations.

Vehicle
certificates
limiting
number of
vehicles

(7) The Minister,

(a) when granting an operating authority limiting the number of vehicles that may be operated under the authority; or

(b) with respect to the holder of an operating authority for carriage of road construction materials issued under the *Public Commercial Vehicles Act*,

R.S.O. 1980,
c. 407

shall issue vehicle certificates in a number not exceeding the number of vehicles permitted to be operated under the authority.

Limit on
vehicles
under
contract

(8) No holder of a single-source authority or an owner-driver authority shall have more commercial vehicles under contract at any time than the number of vehicle certificates held under the authority.

Vehicle
certificate

(9) A vehicle certificate shall state the relevant operating authority.

Expiry

(10) An operating licence may be issued to expire,

(a) at the end of a specified term;

(b) upon a specified day; or

(c) upon the occurrence of a specified event.

Idem

(11) Where the holder of an operating licence fails to file a return or statement required to be filed by the regulations, the licence expires on the day the return or statement was to be filed notwithstanding that a different day may be shown on or indicated by the licence.

Notice of
change

(12) Where the name or address of a holder of an operating licence changes from that set out in the application for the licence or a previous notice of change, the holder shall file, with the Minister, a notice of the change within fifteen days after the change.

(13) Every licensee who does not maintain a place of business in Ontario shall designate and maintain a person resident in Ontario as an agent of the licensee for the purposes of this Act and to accept service for and on behalf of the licensee.

Ontario
agent

(14) For the purpose of subsection (2), a "contract" means a contract, for a period of at least thirty consecutive days, that gives the licensee the right to carry goods of the other party to the contract, which goods are under the control of the other party, and prohibits the licensee from using the vehicle specified in the contract from carrying goods on the licensee's behalf or for a person who is not the other party to the contract.

Definition,
contract

5.—(1) Operating licences and operating authorities are not transferable.

Licence not
transferable

(2) Where a licensee, who is an individual, dies, the executor or administrator of the estate of the deceased may carry on the business of the deceased in accordance with the operating licence for not more than six months after the death.

Death

(3) The directors of a corporate licensee shall report forthwith to the Minister,

Change in
control of
corporation

(a) every issue or transfer of shares of its capital stock or change in beneficial ownership thereof; or

(b) an amalgamation,

that may affect control of the operations of the corporation.

(4) Every licensee shall report to the Minister any arrangement whereby any part of the transportation service authorized is controlled in any way by a person other than the licensee.

Where
licensee
does not
control
business

(5) The report referred to in subsection (4) is not required where the arrangement is a contract of the nature referred to in subsection 4 (2).

Exception
to subs.(4)

6.—(1) An operating licence shall not be issued or an operating authority granted unless the applicant demonstrates fitness to carry on the business of carrying goods for compensation as described in the application for the licence.

Requirements
for licence

(2) An operating licence shall not be issued to an applicant who does not hold a certificate of competency or whose application is not co-signed by an employee who holds such a certificate.

Idem

Corridor
licence

(3) Notwithstanding subsections (1) and (2), every applicant for an operating licence who is authorized to operate a commercial vehicle to carry goods of another person for compensation in a jurisdiction other than Ontario is entitled to an operating licence that permits the licensee to carry goods through Ontario provided the goods are not picked up or dropped off in Ontario.

Idem

(4) Every applicant for an operating licence, except an applicant for a licence under subsection (3), shall file with the Minister, with respect to the business for which authority is sought, a description of the proposed transportation service and evidence that the applicant,

(a) is not an undischarged bankrupt;

(b) is insurable; and

(c) holds a Commercial Vehicle Operator's Registration Certificate issued under the *Highway Traffic Act* that is not under suspension or subject to a fleet limitation.

R.S.O. 1980,
c. 198

Matters to
be considered

(5) In determining the fitness of an applicant, the Minister shall consider,

(a) the past conduct of the applicant or, where the applicant is a corporation, of its officers and directors, including the applicant's safety, financial integrity and customer service record and record of convictions available to the Minister under this Act and the *Highway Traffic Act*, *Public Commercial Vehicles Act*, *Motor Vehicle Transport Act* (Canada), *Compulsory Automobile Insurance Act*, *Environmental Protection Act*, *Employment Standards Act*, *Fuel Tax Act*, 1981, *Dangerous Goods Transportation Act*, 1981, *Criminal Code* (Canada), *Canada Labour Code*, *Transportation of Dangerous Goods Act* (Canada), and the regulations thereunder and such other statutes as may be prescribed, and comparable statutes and regulations of other jurisdictions that afford reasonable grounds for belief that the transportation service will not be operated in accordance with the law and the public interest; and

R.S.O. 1980,
cc. 198, 407,
83, 141, 137

1981, cc. 59,
69

R.S.C. 1970,
cc. M-14,
C-34, L-1

(b) such other matters as are prescribed.

Exception
to subs.(2)

(6) Subsection (2) does not apply where the application is for a licence to carry goods of a nature and on a scale that had

been exempt under the *Public Commercial Vehicles Act* and the applicant was engaged in that transportation during the six months immediately preceding the 1st day of July, 1987. R.S.O. 1980, c. 407

7.—(1) On being satisfied of the fitness of an applicant to hold a licence, the Minister shall give thirty days notice of the intention to issue an operating licence to the applicant by publication in *The Ontario Gazette*. Notice of intention to issue licence

(2) Subsection (1) does not apply to an operating licence restricted to an operating authority issued under subsection 6 (3) (corridor licence). Exception

(3) Any person may, within the thirty-day period referred to in subsection (1), file with the Minister a written request that, Hearing

(a) where there is an allegation that false information was given to the Minister by the applicant, the Minister hold a hearing to determine the fitness of an applicant; or

(b) the Board hold a hearing to conduct a public interest test.

(4) Where a request is made under clause (3) (a) that the Minister, in his or her absolute discretion, does not consider merely frivolous or vexatious, the Minister shall hold the hearing requested, which hearing shall be limited to the allegation that false information was given. Idem

(5) Where the Minister finds, after a hearing under subsection (4), that false information was given, the Minister shall reassess the question of the applicant's fitness to hold a licence. Reassessing fitness

(6) Where subsection (7) does not apply and no request is made under clause (3) (b), and the Minister continues to be satisfied that the applicant is fit to hold the licence, the Minister shall issue the licence applied for. Issue of licence

(7) The Minister may direct the Board to hold a public interest test and, where the Minister so directs, the Board shall hold the hearing. At Minister's direction

(8) Where a request is made under clause (3) (b), the Board shall, subject to section 9, hold the hearing requested. Idem, by Board

Determine
fitness first

(9) A hearing to conduct a public interest test shall not be held until a final determination has been made that the fitness of the applicant has been demonstrated.

Exception

(10) The requirement to hold a hearing to conduct a public interest test does not apply where the application is for an owner-driver authority or an operating authority to carry,

- (a) waste or scrap being 40 29 — miscellaneous waste or scrap; or
- (b) farm products being 01 1 — field crops, 01 2 — fresh fruits or tree nuts, 01 3 — fresh vegetables, 01 91 — horticultural specialities and 01 99 — farm products, not elsewhere classified in STCC.

Idem

R.S.O. 1980,
c. 407

(11) The requirement to hold a hearing to conduct a public interest test does not apply where the applicant holds an operating licence issued under the *Public Commercial Vehicles Act* after the 20th day of June, 1983 and the authority applied for does not exceed that which would be contained in that licence if it had been issued pursuant to a rewritten certificate under section 10b of the *Public Commercial Vehicles Act*.

Stay of
licence

(12) Where a request for a hearing is made in respect of an application, the operating authority applied for shall not be granted until the hearing is completed or there has been a final disposition of the rejection of the request.

Application
of cl. (3) (b)
and subs. (7)

(13) Clause (3) (b) and subsection (7) cease to apply five years after coming into force.

Temporary
licence

8. Where the Minister is satisfied that the circumstances warrant it and that it is in the public interest to do so, the Minister may, notwithstanding subsections 6 (1) and 7 (12), issue an operating licence or grant an operating authority that is valid for not more than twelve months.

Public
interest
test

9.—(1) A hearing to conduct a public interest test pursuant to a request under clause 7 (3) (b) shall be held only where the person who asked for the test makes out a written case to the Board that the granting of the operating authority applied for will have a significant detrimental effect on the public interest.

Idem

(2) A hearing to conduct a public interest test pursuant to the direction of the Minister shall be held only after the Minister has published, in *The Ontario Gazette*, the reasons for wanting the hearing.

(3) In a hearing where a public interest test is conducted, the burden of proof is, Burden of proof

(a) where the hearing is initiated by the Minister, on the applicant for the operating authority; or

(b) where the hearing is as a result of a request under clause 7 (3) (b), on the person making the request.

(4) Before holding a hearing under this section, the Board shall give the Minister fifteen days notice thereof. Notice to Minister

(5) If the Minister is of the opinion that the subject-matter of a hearing of which the Minister receives notice is or is likely to be a matter of provincial interest, the Minister shall so advise the Board in writing together with the reasons before the day fixed by the Board for the hearing and, where that is done, may direct the Board, Provincial interest

(a) to postpone the hearing until thirty days after the day fixed; or

(b) to examine and investigate such matters relating to transportation policy as are referred to it by the Minister, to report thereon to the Minister and to postpone the hearing until thirty days after the date of the report.

(6) The Board, where it holds a hearing after it has been advised that the provincial interest may be involved, shall, as part of that hearing, consider and give effect to every policy statement issued by the Lieutenant Governor in Council related to the provincial interest identified. Policy statements

(7) Where the Lieutenant Governor in Council is of the opinion that the Board has failed to give effect to policy statements as required under subsection (6), the Lieutenant Governor in Council may give notice thereof with particulars to the Board within thirty days after the date of the decision of the Board and the Board shall review its decision and may amend its decision. Review of decision

(8) Where the Lieutenant Governor in Council is of the opinion that the Board has failed to give effect to policy statements in a review, the Lieutenant Governor in Council may give notice thereof to the Board within thirty days after the review and may substitute the decision of the Lieutenant Governor in Council for all or any part of the decision of the Board. Substituting decision

Matters
considered
in public
interest test

10.—(1) In a hearing to conduct a public interest test, the Board shall determine whether granting the operating authority applied for, as set out in the material filed under subsection 6 (4), would have a significant detrimental effect on the public interest in relation to the market proposed to be served by investigating whether there would be significant adverse impact on the following:

1. The existence of a dependable and viable trucking industry.
2. The availability of appropriate trucking services to shippers.
3. The ultimate Ontario consumers of goods and services.
4. Overall or net effect on employment within Ontario and the gross provincial product.
5. The public interest as set out by the Lieutenant Governor in Council in policy statements issued under section 36.

Board
report

(2) Where, after a hearing to conduct a public interest test, the Board finds that granting the operating authority applied for, subject to any limitations or variations recommended by the Board, will not have a significant detrimental effect on the public interest in the market proposed to be served, the Board shall so report to the Minister and recommend that the Minister,

- (a) grant the authority applied for;
- (b) grant the authority applied for subject to a limit on the number of commercial vehicles authorized to be operated thereunder in the first, second, third and fourth years following the issuing of the licence; or
- (c) where the issue of provincial interest has been raised under subsection 9 (5), issue an operating licence with provisions that vary from those applied for.

Issuing
licence

(3) Upon receiving a report under subsection (2), the Minister shall issue a licence in the terms recommended by the Board.

(4) The issue of any licence under subsection (3) may be delayed for up to six months after the Board's decision if the Board so recommends. Deferred issuance

11.—(1) The Minister shall issue a certificate of intercorporate exemption to every applicant therefor who is not precluded from receiving it by subsection (2). Certificate of intercorporate exemption

(2) A certificate of intercorporate exemption shall not be issued, Where not to be issued

(a) to a licensee; or

(b) to a corporation that does not show on the application an affiliated corporation,

and shall not name therein an affiliated corporation that holds an operating licence.

(3) The Minister may, in a certificate of intercorporate exemption, set out such conditions and limitations as the Minister sees fit to govern the carriage of goods under the certificate. Conditions in certificate

(4) For the purpose of this Act, a corporation is an affiliate of another corporation if one of them is the subsidiary of the other, if both are subsidiaries of the same corporation or if each is controlled by the same individual or corporation. Affiliate

(5) For the purpose of subsection (4), a corporation is controlled by an individual corporation or group of corporations if, Control

(a) voting securities of the corporation carrying more than 90 per cent of the votes for the election of director are held, otherwise than by way of security only, by or for the benefit of the other person or group of persons;

(b) the votes carried by the securities referred to in clause (a) are entitled, if exercised, to elect all members of the board of directors of the corporation.

(6) For the purpose of subsection (4), a corporation is a subsidiary of another corporation if, Subsidiary

(a) it is controlled by,

(i) the other corporation,

(ii) the other corporation and one or more corporations each of which is controlled by that other corporation, or

(iii) two or more corporations each of which is controlled by the other corporation; or

(b) it is a subsidiary of a corporation that is the other corporation's subsidiary.

Notification
of change —
re intercor-
porate
exemption

12.—(1) Every holder of a certificate of intercorporate exemption shall notify the Minister of any change in the facts set out in the certificate within thirty days after the change.

Offence

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$5,000.

Trip
permit

13.—(1) Subject to subsection (3), the Minister shall issue a trip permit to every applicant therefor.

Idem

(2) Every trip permit shall,

(a) specify the trip and vehicle, including drawn vehicles if any, for which it applies; and

(b) be subject to the conditions set out therein.

Limit of
three permits

(3) No more than three trip permits may be issued to one person within any twelve-month period.

Commercial
zones

14.—(1) The Minister may designate commercial zones and may vary the boundaries of a commercial zone but, where the Minister does so, it shall be done only in accordance with the recommendations of the Board.

Referral
to Board

(2) Where the Minister proposes to designate a commercial zone or to vary the boundaries of a commercial zone, he shall refer the proposal to the Board and the Board shall hold a public hearing and report thereon to the Minister with its recommendations.

Second
hearing

(3) The Minister may require the Board to hold a second public hearing in respect of all or any part of a proposal that has been reported on under subsection (2) and to again report thereon to the Minister with its recommendations.

Matter for
the Board
to consider

(4) In determining whether to recommend the designation of a commercial zone, the Board shall consider whether the public interest will be served thereby.

(5) In considering public interest, the Board shall take into account the impact on the users of for hire transportation services within the proposed zone and on the providers of the services.

Public
interest

(6) In considering the impact on the providers of services, the Board shall take into account the impact on those to whom this Act does not apply, who are operating exclusively within the proposed zone and on licensees who would be affected thereby.

Idem

15.—(1) No person shall knowingly hire, directly or indirectly, or participate in an arrangement to hire a person to carry goods where the services would be carried out in contravention of subsection 3 (1).

Prohibited
service —
arranging

(2) No person shall,

Prohibited
service —
performing

(a) hold himself out as willing to; or

(b) undertake to,

arrange to carry goods where the service would be carried out in contravention of subsection 3 (1).

16.—(1) No licensee shall carry goods under the authority of an operating licence unless the licensee or an employee of the licensee holds a certificate of competency and, where the regulations so require, such greater number of employees as are indicated by the regulations hold a certificate of competency.

Certificate
of
competency
required

(2) In every situation where the regulations require more than one certificate holder, the licensee is permitted ninety days in which to effect compliance.

Delayed
effect

(3) Every licensee, who ceases to meet the requirements referred to in subsection (1) because of the termination of employment of an employee who holds a certificate of competency, shall be deemed to meet the requirements for ninety days after the termination.

Idem

(4) An employee holding a certificate of competency may be counted for one licensee only when determining whether the requirements of subsection (1) are met except where the licensees are affiliated corporations.

Limited use
of certificate

(5) Every licensee shall notify the Minister within fifteen days after a change in certificate holders whose employment is

Change in
certificate
holders

relied on to satisfy the requirements of subsection (1) of the change.

Exception

(6) Subsection (1) does not apply to an executor or administrator of an estate carrying on business in accordance with subsection 5 (2).

Idem

(7) Every licensee who holds an operating licence issued,

R.S.O. 1980,
c. 407

(a) under section 10b of the *Public Commercial Vehicles Act*;

(b) under the *Public Commercial Vehicles Act* after the 20th day of June, 1983 in respect of goods to be transported before the 1st day of January, 1989; or

(c) under subsection 6 (3) (corridor licence),

is exempt from the application of subsection (1).

Idem

R.S.O. 1980,
c. 407

(8) Every licensee whose authority is limited to the carriage of goods that were exempt under the *Public Commercial Vehicles Act* or to the carriage between points that were within an urban zone under that Act is exempt from the application of subsection (1).

Licence to
be carried

17.—(1) Every person driving a public truck on a highway shall carry or keep, in a readily accessible place in the vehicle, a copy of the operating licence under which the vehicle is being operated and shall surrender the copy for inspection upon the demand of an officer.

Certificate of
intercorporate
exemption to
be carried

(2) Every driver of a commercial vehicle that is being operated under a certificate of intercorporate exemption shall carry or keep in a readily accessible place in the vehicle,

(a) the certificate or a copy thereof; and

(b) a shipping document signed by the consignor of the goods carried showing the name of the consignor, the name and address of the consignee, the originating point and the destination of the shipment and the particulars of the goods comprising the shipment,

and shall surrender them for inspection on the demand of an officer.

Copy of
lease to be
carried

(3) Every driver of a commercial vehicle that is under lease or contract to the owner, consignor or consignee of the goods

being carried shall carry at all times while carrying the goods on a highway a copy of the lease, contract or notice of contract and shall surrender it for inspection on the demand of an officer.

(4) Every driver of a commercial vehicle that is being operated under the authority of a trip permit shall carry or keep the permit in a readily accessible place in the vehicle and shall surrender it for inspection on the demand of an officer.

Trip permit
to be
carried

(5) Every person operating a public truck under an operating authority that limits the number of commercial vehicles that may be operated thereunder shall carry in the vehicle a vehicle certificate issued pursuant to such operating authority and shall surrender it for inspection on the demand of an officer.

Where limit
on number
of vehicles

18.—(1) Except as otherwise provided in the regulations, every licensee shall publish, as prescribed, a tariff of tolls showing the rates and charges and the conditions of carriage for the carrying of goods to and from points in respect of which the carriage is provided or offered by the licensee.

Publishing
tariffs

(2) No licensee shall charge a toll other than that contained in a tariff that is in effect or impose conditions of carriage that are not contained in or imposed in accordance with the tariff.

Tolls

(3) Subsection (2) does not apply to a licensee who charges the toll under a contract, of which there is written evidence, that is for a term,

Exception

(a) of less than fourteen days;

(b) of not less than six months and that provides for an ascertainable maximum quantity of goods to be transported at that toll; or

(c) other than as set out in clause (a) or (b) but has been approved by the Board.

(4) A tariff of tolls shall not come into effect until fifteen days after it has been published in the prescribed manner or, where the Board has waived the fifteen days notice, until it has been published in the prescribed manner.

Coming
into effect

(5) The Board, on the application of a licensee, may, in any particular situation, reduce or waive the fifteen days notice referred to in subsection (4) or approve the term of a contract for purposes of clause (3) (c).

Power of
Board

Bill of
lading

19.—(1) Except as otherwise provided in the regulations, every licensee shall issue a bill of lading to the person delivering or releasing goods to the licensee for carriage for compensation.

Copy to be
retained

(2) A signed copy of every bill of lading issued under this Act shall be retained, as, where and for the time prescribed, by the consignor of the goods involved and by the issuer.

Production
of bill
of lading

(3) Except as otherwise provided in the regulations, every driver operating a public truck shall carry a copy of the bill of lading in respect of the goods being carried and shall surrender it for inspection on the demand of an officer.

Copy of bill
of lading to
accompany
all goods

(4) Where a shipment of goods is carried on more than one vehicle, the licensee shall ensure that every part of the shipment is accompanied by a copy of the appropriate bill of lading.

Way bill

(5) For the purpose of subsections (3) and (4), a way bill, containing such information as is prescribed, may be substituted for the bill of lading.

Exemption
certificate

(6) The Minister may grant a bill of lading exemption in an operating authority to a licensee if the operating authority is within a prescribed class.

Idem

(7) Subsections (3) and (4) do not apply in situations where there is no bill of lading or way bill because its use is obviated through the existence of an exemption granted under this section.

Access to
records

(8) Every person to whom a bill of lading exemption has been granted under subsection (6) shall make available to an officer of the Ministry, upon demand, access to the holder's records, whether in printed form or on film or the access is by electronic means or otherwise, and shall assist the officer in examining and extracting therefrom information that would, except for the exemption, be required to have been contained in a bill of lading or way bill.

Insurance

20. Every licensee shall carry such insurance or provide such bond as is prescribed and shall ensure evidence thereof is carried in every commercial vehicle operated by the licensee.

Direction
to stop

21. Any officer may, for the purpose of an examination, direct, by signals or otherwise, the driver of any commercial vehicle driven on a highway to stop, and the driver upon being so directed shall stop the vehicle.

22.—(1) Any officer may, at any time, examine any commercial vehicle, its contents and equipment for the purpose of ascertaining whether this Act, the *Highway Traffic Act* and the regulations under either Act are being complied with and the person in control of the vehicle shall assist in the examination of it, its contents and equipment.

Examination
by officer

R.S.O. 1980,
c. 198

(2) Where a commercial vehicle examined under this section contains goods, the officer conducting the examination may require the person in charge of the vehicle to surrender all documents in the possession of that person or in the vehicle relating to the operation of the vehicle and to the carriage and ownership of the goods and to furnish all information within that person's knowledge relating to the details of the current trip and the ownership of the goods.

Surrender
of documents

(3) Where an officer is of the opinion, on reasonable and probable grounds, that a commercial vehicle is being operated in contravention of subsection 3 (1), the officer may,

Seizure or
detention

(a) direct the driver of the vehicle to drive the vehicle to such location as is reasonable in the circumstances and detain it at that location; and

(b) seize the permits and number plates for the vehicle,

until the vehicle is able to be operated in compliance with subsection 3 (1).

(4) Every driver who is directed under clause (3) (a) shall comply with the direction.

Duty on
driver

(5) Every permit seized under subsection (3) shall be deemed to be under suspension for the purposes of section 33 of the *Highway Traffic Act* while it is in the custody of the officer seizing it.

Permit
suspension

R.S.O. 1980,
c. 198

(6) Where permits and number plates have been seized or a commercial vehicle has been detained under subsection (3), the person entitled to possession of the vehicle may apply to the District Court for an order that the permits and plates be returned or the vehicle released, as the case may be, and upon a security being deposited with the Court in such amount not to exceed \$5,000, as determined by the Court, the order may be issued.

Order to
release

(7) Every security deposited under subsection (6) shall be held until the final disposition of a charge laid in respect of the believed contravention that led to the seizure or detention or, where a charge is not laid within six months after the

Disposition
of security

seizure or detention, the expiration of the six-month period, whichever first occurs.

Idem

(8) Where there is a conviction in respect of a charge referred to in subsection (7), the security deposited shall be applied to pay the fine imposed.

Lien

(9) All costs necessarily incurred in detaining and storing a vehicle under subsection (3) are a lien on the vehicle.

Examination
of records

23. An officer of the Ministry may examine all books, records and documents of,

- (a) a licensee or a holder of a trip permit relating to the business of operating public trucks; or
- (b) a holder of a certificate of intercorporate exemption or of an affiliated corporation named in the certificate relating to the transportation of goods for compensation,

for the purpose of ensuring that the provisions of this Act and the regulations are being complied with and the officer may, for the purpose of the examination, upon producing his or her designation as an officer of the Ministry, enter at any reasonable time the business premises of the licensee, holder or affiliated corporation, as the case may be.

Investigation

24.—(1) Where the Minister believes, on reasonable and probable grounds, that any person has contravened a provision of this Act or the regulations, the Minister may appoint one or more persons to investigate whether the contravention has occurred and the person appointed shall report the results of the investigation to the Minister.

Powers of
investigator

(2) For purposes relevant to an investigation under this section, the investigator may inquire into and examine the business affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his or her appointment, enter, at any reasonable time, the business premises of the person and examine books, papers, documents and things relevant to the investigation; and
- (b) inquire into negotiations and transactions made by or on behalf of or in relation to the person relating to the transportation of goods or the use of public trucks or that are otherwise relevant to the investigation,

and for the purpose of the inquiry, the investigator has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

(3) No person shall obstruct an investigator in the course of an investigation under this section or withhold from an investigator or conceal or destroy any books, papers, documents or things relevant to the investigation.

No person
shall obstruct
investigator

(4) Where a justice of the peace is satisfied, upon an application without notice by an investigator acting under this section,

Application
to justice of
the peace

- (a) that the investigation has been ordered and that the applicant has been appointed to conduct it; and
- (b) that there are reasonable grounds for believing there are in a specified building, dwelling, receptacle or place, books, papers, documents or things relating to the investigation,

the justice of the peace may, whether or not an inspection has been made or attempted under clause (2) (a), issue an order authorizing the investigator, together with such police officers as the investigator calls upon to assist, to enter and search, if necessary by reasonable force, the building, dwelling, receptacle or place for the books, papers, documents or things and to examine them.

(5) Every entry and search authorized under subsection (4) shall be made between sunrise and sunset unless the order authorizes the investigator to make the search at night.

Times
of entry

(6) The Minister may appoint an expert to assist in examining books, papers, documents or things examined under clause (2) (a) or subsection (4).

Expert
examination

25.—(1) Any person,

Copies

- (a) obtaining a document under section 22, may take the document for the purpose of making a copy of it; or
- (b) in the course of an investigation under section 23 or 24, upon giving a receipt therefor, may take anything that may be examined under that section for the purpose of making copies thereof,

but the copying shall be done as quickly as reasonably possible and the thing copied shall be promptly returned thereafter.

Idem

(2) Any copy made as provided in subsection (1) and certified to be a true copy by the person making the copy is admissible in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the original document and that the facts set out therein are true.

Cancellation
or
amendment
of certificate

26.—(1) The Minister may amend a certificate of intercorporate exemption where a corporation named in the certificate is no longer affiliated to the holder of the certificate or, where the corporation named in the certificate is the only one so named and is no longer affiliated to the holder of the certificate, the Minister may cancel the certificate.

Minister may
suspend or
cancel
certificate

(2) The Minister may suspend or cancel a certificate of intercorporate exemption where the holder thereof or any person under the control or direction of the holder or of an affiliated corporation named therein contravenes this Act or the regulations, the *Highway Traffic Act* or the regulations thereunder or the provisions of the certificate, and the contravention is such that there are grounds for believing that transportation services permitted by the certificate will not be carried on in accordance with the law.

R.S.O. 1980,
c. 198

Cancellation
of licence

27.—(1) The Minister may cancel an operating licence,

- (a) in whole, where the licensee fails to provide any part of the transportation service for which the licensee is licensed for a continuous period of one year;
- (b) in part, where the licensee fails to provide transportation service in respect of that part for a continuous period of one year; or
- (c) in whole or in part at the request of the licensee.

Suspension
or
cancellation
of licence

(2) The Minister may suspend or cancel an operating licence in whole or in part where,

- (a) the licensee or any person under the control or direction of the licensee contravenes this Act or the regulations, any Act referred to in clause 6 (5) (b) or the provisions of the licence and the contravention is such that there are reasonable grounds for believing that the transportation services permitted

by the licence will not be carried on in accordance with this Act or the regulations;

- (b) there has been misconduct or lack of integrity or honesty by the licensee in carrying on the transportation service;
- (c) the licensee is financially incapable of providing transportation services in accordance with this Act and the regulations or the provisions of the licence or of meeting the licensee's financial responsibilities to users of the services; or
- (d) the licensee holds an owner-driver or single-source authority and has been a party to a contract under the authority that has been cancelled in less than thirty days in circumstances that afford reasonable grounds for believing that the transportation service authorized by the authority will not be carried on in accordance with this Act and the regulations.

(3) The Minister may cancel a bill of lading exemption of any holder of an operating licence who does not comply with subsection 19 (8) (access to records) or whose records do not disclose the information that is required in a bill of lading or way bill.

Cancellation
of bill of
lading
exemption
certificate

28.—(1) Where the Minister proposes to suspend or cancel an operating licence, in whole or in part, to suspend, amend or cancel a certificate of intercorporate exemption or to cancel a bill of lading exemption, the Minister shall serve notice of the proposal together with reasons therefor on the licensee or certificate holder.

Notice of
proposal to
cancel, etc.

(2) Every person who is served with a notice under subsection (1) and serves on the Minister and the Board, within fifteen days after that person receives service of the notice, a request for a hearing, is entitled to a hearing by the Board in respect of the proposal.

Right to
hearing

(3) Where the Minister does not receive a request for a hearing as provided in subsection (2), the Minister may, on the expiration of the fifteen days referred to in subsection (2), carry out the proposal.

Where no
hearing
requested

(4) For the purpose of subsection (1), a notice that is mailed by prepaid post to the licensee or certificate holder at that person's address last known to the Minister shall be deemed to have been served on the third day after the day of mailing.

Service

Extension
of time

(5) The Board, on application by a licensee or certificate holder, as the case may be, may extend the time for requesting a hearing, either before or after expiration of the fifteen-day period, and may give such directions as it considers proper consequent upon the extension.

Parties

(6) The Minister, the licensee or certificate holder and such other persons as the Board may specify are parties to every hearing under this section.

Efforts
to comply

(7) In a hearing held under this section, the Board shall take into account, where appropriate, evidence as to the manner in which the licensee has carried on operations under the licence after receipt of notice of hearing and up to the hearing.

Opportunity
to examine
evidence

(8) The Minister shall give any party to a hearing an opportunity to examine, before the hearing, all documentary evidence that will be introduced and all reports, the contents of which, will be given in evidence at the hearing.

Recommendations
of Board

(9) The Board shall, after a hearing under this section, make a report to the Minister, setting out its findings of fact, conclusions of law and recommendations.

Decision
subsequent
to report

(10) The Minister, on receiving and considering a report made under this section, may carry out the proposal to which it relates, fully or in a modified manner and, where he does so, shall give written reasons for the decision to the licensee or holder or, where the Minister decides not to carry out the proposal, he shall so advise the licensee or certificate holder.

Referral
to Board
where
uncertainty

29.—(1) The Minister may at any time refer an operating licence to the Board where, in the opinion of the Minister, any part is ambiguous or the rights granted by the licence are uncertain and the Board shall, after a hearing, report to the Minister and may recommend that the licence be amended to resolve any ambiguity or uncertainty.

Issue of
clarified
licence

(2) Upon receipt of a report under subsection (1) that recommends a licence be amended, the Minister shall issue an amended operating licence in the form recommended by the Board.

Confidentiality

30. Every person employed in the administration of this Act, including an investigator under section 24, shall preserve confidentiality with respect to all matters that come to his or her knowledge in the course of that person's duties or employment and shall not communicate any such matter to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act or the regulations or of the *Motor Vehicle Transport Act* (Canada);

R.S.C. 1970,
c. M-14

- (b) to his or her counsel; or

- (c) with the consent of the person to whom the information relates.

31. Where the Minister receives a report under subsection 5 (3) or (4) or information that leads the Minister to conclude that a report should have been made under subsection 5 (3) or (4), the Minister shall refer the report or the information to the Board and the Board shall hold a hearing to determine whether persons different from those indicated at the time of the application for the licence are in actual control of the transportation service authorized by the licence and, where that is the case, the Minister shall cancel the operating licence.

Cancellation
of licence
by Board

32.—(1) Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided, is liable to a fine of not less than \$150 and not more than \$1,500.

Penalty

(2) Every person who knowingly makes a false statement in an application, declaration, affidavit or document required under this Act or the regulations or by the Board is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Idem

33. Any licensee may be charged with and convicted of an offence under this Act or the regulations for which the driver of the licensee's public truck is subject to be charged and on conviction, the licensee is liable to the penalty provided for the offence.

Licensee
vicariously
liable

34. No prosecution shall be instituted under this Act without the prior consent of an officer.

Consent to
prosecute

35.—(1) There shall be a committee to be known as the Advisory Committee on Truck Transportation composed of not fewer than twelve and not more than twenty members.

Advisory
Committee
on Truck
Transportation

(2) The Minister shall appoint the members of the Committee for such terms as the Minister determines and in making

Members

the appointments shall include representatives of the Ministry, the Board, shippers and carriers.

Chairman
and
vice-chairman

(3) The Minister shall designate a chairman and a vice-chairman from among the members appointed.

Vacancies

(4) The Minister may fill any vacancy that occurs in the membership of the Committee.

Function of
Committee

(5) The function of the Committee is to advise and make recommendations to the Minister on,

- (a) the effectiveness of this Act and its administration by the Ministry and the Board in relation to the objectives set out in section 2;
- (b) any matter concerning the transportation of goods in commercial vehicles; and
- (c) the degree to which the public interest test is necessary to advance the objectives of section 2.

Policy
statements

36.—(1) The Lieutenant Governor in Council may issue policy statements setting out matters to be considered by the Board when determining questions of public interest and the Board shall take the statements into consideration together with such other matters as the Board considers appropriate.

Publication

(2) Every policy statement made under subsection (1) shall be published in *The Ontario Gazette*.

Ministerial
directions to
investigate

37.—(1) The Minister may direct the Board to examine and investigate such matters relating to transportation policy as the Minister specifies and the Board shall report thereon to the Minister.

Hearings

(2) For the purposes of subsection (1), the Board may hold such hearings as it considers necessary.

Non-appli-
cation
of R.S.O.
1980,
c. 338

38. Section 22 of the *Ontario Highway Transport Board Act* does not apply to an order or decision of the Board under this Act.

One valid
licence only
R.S.O. 1980,
c. 407

39.—(1) Every operating licence issued to a licensee under the *Public Commercial Vehicles Act* or this Act is cancelled upon the issuance of a new licence under this Act to the same licensee.

Amending
licence

(2) An amended licence constitutes a new licence, as amended, for the purpose of subsection (1).

40.—(1) The Lieutenant Governor in Council may make Regulations regulations,

1. prescribing classes of licences, licensees and authorities;
2. prescribing fees and the basis for computing fees and providing for the payment thereof;
3. prescribing conditions and limitations to which licences, authorities, permits and certificates of intercorporate exemptions shall be subject;
4. prescribing the contents of and the information to be contained in bills of lading;
5. prescribing the form, amount, nature, class, provisions and conditions of insurance policies and bonds that shall be provided and carried by licensees;
6. respecting the form and content of tariffs and tolls, including conditions of carriage, the publication thereof and the payment of tolls;
7. prescribing forms, including the contents thereof and information to be contained therein, and providing for their use and the filing thereof;
8. prescribing, regulating and limiting the hours of labour of drivers of public trucks;
9. prescribing the qualifications of drivers of public trucks and prohibiting persons who do not meet the qualifications from driving public trucks;
10. prescribing equipment to be carried by public trucks and the condition and location in which the equipment shall be kept;
11. prescribing the method of bookkeeping or accounting to be used and the returns or statements to be filed by licensees and providing for the filing thereof;
12. prescribing criteria to be taken into account in determining the fitness of applicants for operating authorities and licences;
13. prescribing and providing for the information to be marked on articles covered by a bill of lading issued

by licensees and exempting any class of licensees from any provision so prescribed or provided;

14. prescribing conditions that shall be deemed to be a part of every contract or a class of contract for the carriage of goods for compensation to which this Act applies;
15. exempting any class of licensees or drivers of any class of public truck from the application of sections 18 and 19 and prescribing conditions to which any exemption is subject;
16. prescribing classes of operating authorities for the purposes of subsection 19 (6) and conditions that apply to holders of operating authorities who carry goods under a bill of lading exemption;
17. governing the issue and renewal of operating licences;
18. prescribing the qualifications of applicants for and holders of operating authorities and operating licences;
19. governing the issue and renewal of certificates of intercorporate exemption and prescribing terms to which the certificates shall be subject;
20. establishing certificate of competency training programs including the prescribing of training courses, courses of study, methods of training, qualifications for certification, fixing credits to be allowed for courses, the administration of the program, providing for the granting of certificates and the recognition of previous experience;
21. prescribing classes of public trucking undertakings and the number, location and scope of duties of holders of certificates of competency required to be employed therein;
22. prescribing the contents of documents and financial statements and providing for their filing with the Minister or the Board;
23. prescribing the period of time for which certificates of intercorporate exemption are valid and providing for the renewal thereof;

24. prescribing the method of determining the number of employees required to hold a certificate of competency and providing for different calculations based on the type of venture carried on;
25. designating certificates or documents that shall, on designation, be deemed to be a certificate of competency issued under this Act;
26. respecting any matter or thing that is required or permitted to be prescribed under this Act.

(2) Any regulation may be general or particular in its application. Idem

(3) Any regulation may adopt by reference in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, standard or specification, and may require compliance with any code, standard or specification that is so adopted. Adoption of codes, etc.

41.—(1) An operating licence issued pursuant to a certificate of public necessity and convenience under section 10b of the *Public Commercial Vehicles Act* shall be deemed to be an operating licence for the purpose of this Act. Transition
R.S.O. 1980,
c. 407

(2) An operating licence issued under the *Public Commercial Vehicles Act*, other than a licence referred to in subsection (1), shall be deemed to be an operating licence for the purpose of this Act until and including the 31st day of December, 1988 unless cancelled sooner by the operation of section 39. Idem

(3) A certificate of intercorporate exemption issued under section 4a of the *Public Commercial Vehicles Act* shall be deemed to be a certificate of intercorporate exemption for the purpose of this Act. Idem

(4) No person shall operate a public truck under an operating licence referred to in subsection (2) unless the vehicle bears a licence plate issued to the operator under the *Public Commercial Vehicles Act*. Limitation

(5) Subsection 6 (1) of the *Public Commercial Vehicles Act* does not apply where the application for the licence is made after the 1st day of July, 1987. Limitation
re R.S.O.
1980, c. 407,
subs. 6 (1)

42.—(1) Section 2, sections 4a and 4b, as enacted by the Statutes of Ontario, 1981, chapter 71, section 3, subsection 6 (3), sections 9, 13, 18 to 22, sections 24 to 26, section 27, as amended by the Statutes of Ontario, 1981, chapter 71, section

10, and sections 27 to 30 of the *Public Commercial Vehicles Act*, being chapter 407 of the Revised Statutes of Ontario, 1980, are repealed.

(2) The *Public Commercial Vehicles Act*, being chapter 407 of the Revised Statutes of Ontario, 1980, the *Public Commercial Vehicles Amendment Act, 1981*, being chapter 71, the *Public Commercial Vehicles Amendment Act, 1983*, being chapter 79, the *Public Commercial Vehicles Amendment Act, 1984*, being chapter 20, and subsection 40 (1) of the *Truck Transportation Act, 1986*, being chapter ..., are repealed on the 1st day of January, 1989.

Commence-
ment

43. This Act comes into force on the 1st day of July, 1987.

Short title

44. The short title of this Act is the *Truck Transportation Act, 1986*.

Bill 151

An Act to amend the Ontario Highway Transport Board Act

The Hon. E. Fulton

Minister of Transportation and Communications

1st Reading November 19th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The definitions of "public commercial vehicle" and "public vehicle" are being deleted. They are not required in section 1.

SECTION 2. Provision is being made to provide members of the Board with remuneration and expenses.

SECTION 3. Section 16 of the Act gives the Board power to review any decision made by it. Currently, there are only two Acts under which it acts. These two Acts are being specified.

SECTION 4. With the proposed *Truck Transportation Act, 1986*, there would be a third Act under which the Board would act. The new sections 16a and 16b of the Act deal with the Board's powers of review under the *Truck Transportation Act, 1986* as well as the *Ontario Highway Transport Board Act*. The new section 16c of the Act is an added area in respect of which the Board may hold hearings. The new section 16d provides for notice of hearings to be given to the Minister.

SECTION 5. The specific reference to two Acts is being deleted. These are not necessary and the proposed *Truck Transportation Act, 1986* makes the specific references too restrictive. Subsection 19 (3) deals with the recording of oral evidence.

SECTION 6. Section 22 of the Act provides for petitions to the Lieutenant Governor in Council. The effect of the amendment is to preclude such petitions in respect of decisions on matters arising under the proposed *Truck Transportation Act, 1986*.

SECTION 7. Self-explanatory.

Bill 151

1986

**An Act to amend the
Ontario Highway Transport Board Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (c) and (d) of the *Ontario Highway Transport Board Act*, being chapter 338 of the Revised Statutes of Ontario, 1980, are repealed.

2. Section 2 of the said Act is amended by adding thereto the following subsection:

(3) The members shall receive such remuneration and expenses as the Lieutenant Governor in Council determines. Remuneration

3. Section 16 of the said Act is amended by inserting after "application" in the second line "with respect to matters arising under the *Public Commercial Vehicles Act* or the *Public Vehicles Act*".

4. The said Act is amended by adding thereto the following sections:

16a.—(1) The Board may, if it considers it appropriate to do so, or shall, on the direction of the Minister or the Lieutenant Governor in Council, rehear any application or reconsider any decision, order, declaration or ruling made by it under the *Truck Transportation Act*, 1986. Review re
1986, c....

(2) After a rehearing or reconsideration under subsection (1), the Board may amend, revoke or confirm the decision, order, declaration or ruling. Idem

(3) The powers of the Board under this section and section 16 are concurrent with the powers of the Minister related to the suspension and cancellation of operating licences. Concurrent
powers

Appeal to
Board

16b.—(1) Any person objecting to a decision of the Board,

1986, c....

(a) made as a result of a hearing under the *Truck Transportation Act, 1986* to conduct a public interest test; or

(b) made under this Act,

may, with the consent of the Board, appeal the decision.

Idem

(2) Where the grounds for an appeal under subsection (1) are that new facts have arisen since the hearing or that the decision was based on an error of fact, the appeal shall be heard by the same members who made the original decision.

Idem

(3) Where the grounds for an appeal are other than those set out in subsection (2), the appeal shall be heard by members who were not involved in the original decision.

Interim
licence

(4) The Board, when it consents to an appeal under subsection (1), may recommend that the Minister grant an interim operating licence that is valid until the final disposition of the appeal.

Reviewing
operations
and conduct

16c.—(1) The Board may, with the prior approval of the Minister, if it considers it appropriate to do so, or shall, on the direction of the Minister, hold a hearing,

(a) into the operation of any transportation service conducted by means of commercial motor vehicles, within the meaning of section 15a of the *Highway Traffic Act*; or

R.S.O. 1980,
c. 198

(b) into the conduct of any holder of a Commercial Vehicle Operator's Registration Certificate,

to determine whether the operation or conduct,

1986, c....;
R.S.C. 1970,
c. M-14

(c) contravenes the provisions of the *Truck Transportation Act, 1986*, *Motor Vehicle Transport Act* (Canada) or the regulations thereunder; or

(d) constitutes a persistent breach of contracts between the provider of the service or certificate holder and shippers.

Order by
Board

(2) When, after a hearing under subsection (1), the Board determines that there has been a contravention, it may order,

- (a) that the operation of the transportation service in the manner that caused the contravention stop;
- (b) that the conduct of the holder of the Commercial Vehicle Operator's Registration Certificate that constituted the contravention stop; or
- (c) if the operator of the transportation service is the holder of an operating licence, that the licence be amended to expire upon a specified date.

(3) Subsection (2) does not apply where the hearing is the result of a direction by the Minister if, at the time of the direction, the Minister also directed the Board to report its findings to the Registrar of Motor Vehicles. Report to Registrar

16d. The Board shall give the Minister thirty days notice of every hearing under section 16a. Notice to Minister

5. Subsection 19 (3) of the said Act is amended by striking out "under the *Public Vehicles Act* or the *Public Commercial Vehicles Act*" in the fourth and fifth lines.

6. Section 22 of the said Act is amended by inserting after "Board" in the fourth line "in respect of a matter arising under the *Public Vehicles Act* or the *Public Commercial Vehicles Act*".

7. Section 26 of the said Act is amended by adding thereto the following subsection:

(2) The Board may order any parties to a hearing before it to pay the costs of any of the other parties involved or may make any other order with respect to costs that under all the circumstances it considers just. Costs

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

9. The short title of this Act is the *Ontario Highway Transport Board Amendment Act, 1986*. Short title

Bill 152

An Act to amend the Highway Traffic Act

The Hon. E. Fulton

Minister of Transportation and Communications

1st Reading November 19th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill brings the concept of "Commercial Vehicle Operator's Registration" or "CVOR" under the *Highway Traffic Act*. This concept is tied into the proposed *Truck Transportation Act, 1986*.

SECTION 1. Subsection 7 (6) of the Act authorizes the Minister to refuse to issue or validate vehicle permits for vehicles covered by specified Acts unless the owner of the vehicle has an operating licence under a specified Act. The proposed *Truck Transportation Act, 1986* is being added to the list of specified Acts.

SECTION 2. The proposed amendments provide for the issuance of CVOR certificates. The driving of commercial motor vehicles is, basically, prohibited unless the operator has a CVOR certificate. The carrying of specified documents is mandated. Administrative and enforcement procedures are set up to implement this policy.

SECTION 3. Section 30 of the Act was recast to simplify the structure, clarify the intent and to incorporate references to CVOR certificates. Some changes are necessary to reflect the existence of the proposed CVOR system.

SECTIONS 4, 5 and 10. Updating the Act to anticipate the enactment of the proposed *Truck Transportation Act, 1986*.

SECTION 6. Section 166 of the Act provides that a motor vehicle owner is jointly liable with the driver of the vehicle for damage caused through negligence. The added provision imposes a similar liability on the operator of a commercial motor vehicle who may not be the owner of the vehicle.

SECTIONS 7 and 8. Complementary to section 2 of the Bill.

SECTION 9. The amendment corrects an internal reference and is complementary to section 3 of the Bill.

Bill 152

1986

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 7 (6) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding thereto the following clause:

- (c) as a public truck within the meaning of the *Truck Transportation Act*, 1986, c. ...

2. The said Act is amended by adding thereto the following sections:

15a.—(1) In this section and in sections 15d and 15e,

Definitions

“commercial motor vehicle” does not include,

- (a) an ambulance, a fire apparatus, a hearse, a casket wagon, a mobile crane, a motor home, a vehicle commonly known as a tow truck or a commercial motor vehicle, other than a bus, having a registered gross weight of not more than 3000 kilograms, unless the vehicle is prohibited from being operated except under the authority of an operating licence issued under the *Public Commercial Vehicles Act*, *Public Vehicles Act* or the *Truck Transportation Act*, 1986,

R.S.O. 1980,
cc. 407, 425
1986, c. ...

- (b) a commercial motor vehicle leased for no longer than thirty days by an individual for the transportation of goods kept for that individual’s personal use or the gratuitous carriage of passengers,
- (c) a commercial motor vehicle operated under a permit and number plates issued under a regulation

made under clause 7 (14) (f) or (fa) that is not transporting passengers or goods,

(d) a commercial motor vehicle operated under the authority of an In-Transit permit, and

(e) a bus with a designed seating capacity for not more than eleven passengers that is used for personal purposes without compensation;

“operator” means the person responsible for the operation of a commercial motor vehicle including the conduct of the driver of, and the carriage of goods, if any, in the vehicle or combination of vehicles;

1986, c. ... “owner-driver authority” means an owner-driver authority issued under the *Truck Transportation Act, 1986*;

“single-source authority” means a single-source authority issued under the *Truck Transportation Act, 1986*.

CVOR
certificate
required

(2) No person shall drive or operate a commercial motor vehicle on a highway unless the operator is the holder of a CVOR certificate that is not under suspension.

Documents
to be
carried

(3) Every driver of a commercial motor vehicle shall carry the original or a copy of,

(a) the CVOR certificate issued to the operator of the vehicle;

(b) the lease of the vehicle meeting the requirements of subsection (5) if it is a leased vehicle; or

(c) the applicable contract or the notice thereof, as filed with the Ministry, meeting the requirements of subsection (5) if the vehicle is operated under an owner-driver authority or single-source authority,

and where the operator has been issued fleet limitation certificates, a fleet limitation certificate.

Documents
to be
surrendered

(4) Every driver of a commercial motor vehicle shall, upon the demand of a police officer, surrender for inspection the documents that are required under subsection (3) to be carried.

Requirements
for lease
or contract

(5) Every lease, contract or notice of contract carried under subsection (3) shall clearly identify the vehicle involved, the

parties thereto and their addresses, the operator of the vehicle and the operator's CVOR certificate.

(6) A commercial motor vehicle operated under the authority of an owner-driver authority or single-source authority shall be deemed to be operated by the person or partnership that contracted with the holder of the licence. Deemed operator

(7) For a commercial motor vehicle, for which an Ontario permit is not in force and which bears number plates from and is registered in another province or state, the motor vehicle permit may be substituted for a CVOR certificate for the purposes of subsections (2) and (3). Substitution for CVOR certificate

15b.—(1) The Minister shall issue a CVOR certificate to every person who applies therefor in the prescribed form and meets the requirements of this Act and the regulations. Certificates issued by Minister

(2) The Minister may refuse to issue a CVOR certificate to a partnership or corporation where a partner or officer thereof is the holder of, or a partner or officer of a holder of, a CVOR certificate that is under suspension or the subject of a fleet restriction under subsection 30 (1) or (2). Refusal to issue

(3) The Minister may refuse to issue a CVOR certificate to an individual where the individual is a partner of a partnership or officer of a corporation that is the holder of a CVOR certificate that is under suspension or the subject of a fleet restriction under subsection 30 (1) or (2). Idem

(4) No person, alone or in partnership, is entitled to hold more than one CVOR certificate. One certificate only

15c. Every corporate holder of a CVOR certificate shall notify the Minister in writing, within fifteen days after any change in the name, address or persons constituting the officers of the corporation, of the change made. Changes

15d. In the absence of evidence to the contrary, where there is no CVOR certificate, lease or contract applicable to a commercial motor vehicle, the holder of the plate portion of the permit for the vehicle shall be deemed to be the operator for the purposes of sections 15c and 15e. Person deemed to be operator

15e.—(1) Every person who gives up possession of a commercial motor vehicle under a lease or contract shall retain a copy of the lease or contract in his place of business for a period of one year after the termination of the lease or contract. Retaining lease or contract

Where
contravention
of
subs. 15a (2)

(2) A police officer who has reason to believe that a commercial motor vehicle is being operated in contravention of subsection 15a (2) or subsection 30 (3e) may,

(a) detain the vehicle at any location that is reasonable in the circumstances; and

(b) seize the permits and number plates for the vehicle,

until the vehicle can be moved without a contravention of this Act occurring.

Permit
suspended

(3) Every permit seized under subsection (2) shall be deemed to be under suspension for the purposes of section 33 while it is in the custody of the officer seizing it.

Lien

R.S.O. 1980,
c. 261

(4) The costs incurred in detaining a vehicle under subsection (2) are a lien on the vehicle, which may be enforced in the manner provided by section 52 of the *Mechanics' Lien Act*.

Court
application

(5) The person entitled to possession of a vehicle that is detained or the permits or plates of which are seized under subsection (2) may apply to the District Court for an order that the vehicle be released or the permits and plates returned, as the case may be.

Security

(6) On an application being made under subsection (5), the Court may make the order applied for on condition that a security, for the payment of any fine imposed, in such amount as is determined by the Court but not exceeding \$5,000 be deposited with the Court.

Return of
security

(7) Every security deposited under subsection (6) shall be returned,

(a) upon a final acquittal under all charges arising in connection with the seizure or detention;

(b) where a charge is not laid within six months after the seizure or detention, on the expiration of the six month period; or

(c) upon a conviction arising in connection with the seizure or detention, after withholding the amount of the fine.

Offence

15f.—(1) Every person who contravenes subsection 15a (3) or (4), section 15c or 15e or a regulation made under

section 15g is guilty of an offence and on conviction is liable to a fine of not more than \$500.

(2) Every person who contravenes subsection 15a (2) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both. Idem

15g. The Lieutenant Governor in Council may make Regulations regulations,

- (a) prescribing forms;
- (b) prescribing fees for the replacement of CVOR certificates;
- (c) classifying persons and vehicles and exempting any class of person or vehicle from any provision of section 15a and prescribing conditions for any such exemption;
- (d) prescribing the qualifications required to obtain and to hold CVOR certificates and authorizing the Minister to waive such qualifications as are specified in the regulations under the circumstances prescribed therein;
- (e) providing for the suspension or cancellation of CVOR certificates where the prescribed qualifications or conditions are not maintained;
- (f) respecting documents and information to be filed with or supplied to the Ministry prior to the issuance of CVOR certificates or as a condition of retention thereof by the holders of CVOR certificates;
- (g) providing for a demerit point system for holders of CVOR certificates and for the cancellation and suspension of certificates for contravention of the system;
- (h) requiring the attendance of certificate holders to show why a certificate should not be cancelled or suspended.

3.—(1) Subsections 30 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

- (1) The Registrar may suspend or cancel,

Registrar
may suspend,
cancel
licence, etc.

- (a) the plate portion of a permit as defined in Part II;
- (b) a driver's licence; or
- (c) a CVOR certificate,

on the grounds of,

- (d) misconduct for which the holder is responsible, directly or indirectly, related to the operation or driving of a motor vehicle;
- (e) conviction of the holder for an offence referred to in subsection 184 (1) or (1a); or
- (f) any other sufficient reason not referred to in clause (d) or (e).

Restriction

(2) As an alternative to a suspension or cancellation under subsection (1), the Registrar may restrict the number of commercial motor vehicles that may be operated by a holder of a CVOR certificate during such period as the Registrar stipulates.

**New licence,
etc., not to
be issued**

(3) A person whose permit, licence or certificate is cancelled or is under suspension is not entitled to be issued a certificate, licence or plate portion of a permit, as the case may be.

**Fleet
limitation
certificates**

(3a) Where a restriction is imposed under subsection (2), the Registrar shall issue to the holder of the CVOR certificate fleet limitation certificates in a number equal to the number of vehicles permitted to be operated.

Offence

(3b) Every person whose permit for a vehicle, other than a commercial motor vehicle, is suspended or cancelled and applies for or procures the issue or has possession of the plate portion of a permit issued to him or her is guilty of an offence and on conviction is liable to a fine of not less than \$40 and not more than \$200 and to imprisonment for a term of not more than thirty days.

Idem

(3c) Every person whose licence is suspended or cancelled and who, while prohibited from driving a motor vehicle, applies for or procures the issue to or has possession of any portion of a licence other than a Photo Card portion issued to him or her is guilty of an offence and on conviction is liable to a fine of not less than \$40 and not more than \$200 and to imprisonment for a term of not more than thirty days.

(3d) Every person whose permit for a commercial motor vehicle or certificate is suspended or cancelled who applies for or procures the issue or has possession of a certificate or the plate portion of a permit for a commercial motor vehicle issued to him or her is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. Idem

(3e) Every person, Idem

- (a) in respect of whom a restriction is imposed under subsection (2) who operates a commercial motor vehicle in which a valid fleet limitation certificate is not carried; or
- (b) who operates a commercial motor vehicle without a permit or certificate or when his or her permit or certificate is under suspension,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

(3f) For the purposes of this section, "commercial motor vehicle" has the same meaning as defined in section 15a. Interpretation

(2) Subsection 30 (4) of the said Act is amended by inserting after "Act" in the second line "the *Truck Transportation Act, 1986*".

4. Subsection 44 (15) of the said Act is amended by inserting after "*Public Vehicles Act*" in the fourth line "the *Truck Transportation Act, 1986*".

5. Subsection 104 (5) of the said Act is amended by striking out "produced" in the fifth line and inserting in lieu thereof "surrendered" and by inserting after "Act" where it occurs the first time in the seventh line "the *Truck Transportation Act, 1986*".

6. Section 166 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 37, is further amended by adding thereto the following subsection:

(3) In addition to any liability of an owner incurred under subsection (1), the operator of a commercial motor vehicle, as defined in subsection 15a (1), is liable for loss or damage sustained by any person by reason of negligence in the operation of the commercial motor vehicle on a highway. Liability of operator of commercial motor vehicle

7.—(1) Subclause 179 (c) (iii) of the said Act is repealed and the following substituted therefor:

- (iii) a record of all licences, permits and CVOR certificates issued, suspended, revoked, cancelled or revived under this Act.

(2) Clause 179 (c) of the said Act is amended by striking out “and” at the end of subclause (v), by renumbering subclause (vi) as subclause (vii) and by adding thereto the following subclause:

- (vi) an operating record of every conviction of every CVOR certificate holder and the holder's agents and employees that is reported to the Registrar under section 184 and such other convictions, whether or not the certificate holder was the person convicted, as the Registrar considers useful for the purpose of the administration and enforcement of this Act, and

8. Section 181 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 15, section 12 and 1983, chapter 63, section 43, is further amended by adding thereto the following subsection:

Interpretation

- (5) In this section, “owner” includes operator as defined in section 15a or as deemed in section 15d.

9. Subsection 190 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 63, section 46, is amended by striking out “subsection 30 (2) or (3)” in the fourth line and inserting in lieu thereof “subsection 30 (3b), (3c), (3d) or (3e)”.

10. Subsection 194a (1) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 13, section 17, is amended by inserting after “the” in the first line “*Truck Transportation Act, 1986*”, by inserting after “service” in the seventh line “on the operator of the vehicle as defined in subsection 15a (1) or” and by inserting after “unless” in the eighth line “in the case of the owner”.

11. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

12. The short title of this Act is the *Highway Traffic Amendment Act, 1986*. Short title

Bill 153

An Act to amend the Election Finances Act, 1986

Ms Fish

1st Reading November 20th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides that child care expenses of a candidate shall not be included as a campaign expense for the purpose of the Act.

Bill 153

1986

**An Act to amend the
Election Finances Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The definition of “campaign expense” in subsection 1 (1) of the *Election Finances Act, 1986*, being chapter 33, is amended by striking out “and” at the end of clause (i), by adding “and” at the end of clause (j) and by adding thereto the following clause:

(k) child care expenses of a candidate,

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Election Finances Amendment Act, 1986*. Short title

Bill 154

**An Act to provide
for Pay Equity
in the Broader Public Sector
and in the Private Sector**

The Hon. I. Scott
Attorney General

1st Reading November 24th, 1986
2nd Reading
3rd Reading
Royal Assent

Projet de loi 154

**Loi portant établissement
de l'équité salariale
dans le secteur parapublic
et dans le secteur privé**

L'honorable I. Scott
procureur général

1^{re} lecture 24 novembre 1986
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The Bill provides for the redressing of systemic gender discrimination in compensation for work performed by employees in female job classes in the establishments of all employers in the broader public sector (a defined term) and those employers in the private sector (a defined term) who employ ten or more employees. Among the features of the Bill are the following:

1. Systemic gender discrimination will be identified through comparisons between female job classes (a defined term) and male job classes (a defined term) in terms of relative compensation and in terms of the relative value of the work performed. (Section 3)
2. A criterion for determining value is set out. (Section 4)
3. Tests for the achievement of pay equity are set out. (Section 5)
4. Employers must establish and maintain compensation practices that provide for pay equity. (Section 6)
5. Certain differences in compensation such as those resulting from legitimate seniority plans or red-circling are excluded in determining pay equity. (Section 7)
6. An employer cannot reduce compensation to achieve pay equity. (Section 8)
7. Intimidation of persons who seek enforcement of the Act or who are participating, or may participate, in enforcement proceedings is prohibited. (Section 8)
8. All employers in the broader public sector and those employers in the private sector who employ at least 100 employees will be required to develop and implement pay equity plans. Employers with more than nine and fewer than 100 employees may prepare and implement pay equity plans but are not required to do so. (Parts II and III)
9. Different classes of employers will have different time limits for implementing pay equity. (Clause 12 (2) (e))
10. Provision is made for enriched compensation adjustments for employees in the lowest paid female job classes. (Subsection 12 (3))
11. Each employer will be required to make annual adjustments in rates of compensation equal to at least 1 per cent of the employer's payroll for the preceding year until pay equity is achieved. (Subsections 12 (4) and (5))
12. Pay equity plans bind an employer, the employees of an employer and the bargaining agent, if any, of the employees. (Subsection 12 (8))
13. The employer and the bargaining agent for employees in a bargaining unit will negotiate the pay equity plan for the bargaining unit. (Section 13)
14. The employer will prepare the pay equity plan for employees who are not in a bargaining unit. (Subsection 13 (8) and section 14)
15. Review officers will investigate and attempt to settle pay equity plans where an employer or an employer and a bargaining agent are unable to prepare a pay equity plan by the mandatory posting date (a defined term). Review officers will have the power to settle outstanding matters by order. (Section 15)

NOTES EXPLICATIVES

Le projet de loi a pour objet d'éliminer la discrimination systémique entre les sexes en ce qui concerne la rétribution du travail effectué par les employés des catégories d'emplois à prédominance féminine qui oeuvrent dans les établissements de tous les employeurs du secteur parapublic (terme défini) et dans ceux des employeurs du secteur privé (terme défini) qui ont à leur service dix employés ou plus. Voici certains points saillants du projet de loi :

1. Repérage de la discrimination systémique entre les sexes au moyen de comparaisons établies entre les catégories d'emplois à prédominance féminine (terme défini) et les catégories d'emplois à prédominance masculine (terme défini) en ce qui concerne la rétribution proportionnelle et la valeur proportionnelle du travail effectué. (Article 3)
2. Établissement d'un critère servant à déterminer la valeur du travail. (Article 4)
3. Établissement de méthodes permettant de déterminer si l'équité salariale est atteinte. (Article 5)
4. Obligation pour les employeurs d'établir et de maintenir des pratiques de rétribution assurant l'équité salariale. (Article 6)
5. Exclusion, pour la détermination de l'équité salariale, de certains écarts de rétribution tels ceux qui sont fondés sur des régimes légitimes d'ancienneté ou sur la pratique du «salaire étoilé». (Article 7)
6. Interdiction à l'employeur de diminuer la rétribution afin d'atteindre l'équité salariale. (Article 8)
7. Interdiction d'intimider les personnes qui demandent l'application de la loi, qui participent ou pourraient participer à une instance relative à l'exécution de la loi. (Article 8)
8. Obligation pour tous les employeurs du secteur parapublic, et pour les employeurs du secteur privé qui ont au moins 100 employés à leur service, d'élaborer et de mettre en oeuvre des programmes d'équité salariale. Les employeurs qui ont plus de neuf et moins de 100 employés peuvent élaborer et mettre en oeuvre un programme d'équité salariale, mais ne sont pas obligés de le faire. (Parties II et III)
9. Dates limites différentes selon les différentes catégories d'employeurs pour atteindre l'équité salariale. (Alinéa 12 (2) e))
10. Rajustements plus importants pour les employés des catégories d'emplois à prédominance féminine dont le salaire est le plus bas. (Paragraphe 12 (3))
11. Obligation pour tous les employeurs d'effectuer des rajustements annuels de la rétribution équivalant à au moins 1 pour cent de leur feuille de paie pour l'année précédente, jusqu'à ce que l'équité salariale soit atteinte. (Paragraphe 12 (4) et (5))
12. Les programmes d'équité salariale lient l'employeur, les employés de l'employeur et leur agent négociateur, le cas échéant. (Paragraphe 12 (8))
13. Négociation d'un programme d'équité salariale relié à une unité de négociation entre l'employeur et l'agent négociateur des employés de l'unité de négociation. (Article 13)

16. A pay equity plan shall be deemed to have been approved by the Commission if no objections are filed with the Commission. (Subsections 14 (8) and 15 (5))
17. Small private sector employers will have a transition period before they have to comply with the Act with respect to existing compensation practices in existing establishments (a defined term). (Section 20)
18. The Pay Equity Commission of Ontario is established. It will have the power to deal with objections related to proposed pay equity plans and complaints related to the matters set out in the Act. (Sections 16, 21 and 26)
19. Fines may be imposed for contraventions of the Act or orders of the Commission. (Section 25)
20. Review officers will be appointed to investigate objections and complaints and to monitor the preparation and implementation of pay equity plans. (Subsection 28 (2) and section 33)
21. Provision is made for a review of the Act beginning seven years after the effective date. (Section 36)

14. Élaboration par l'employeur d'un programme d'équité salariale à l'intention des employés qui n'appartiennent pas à une unité de négociation. (Paragraphe 13 (8) et article 14)
15. Des agents de révision mènent des enquêtes et tentent d'amener les parties à accepter un règlement lorsqu'un employeur ou un employeur et un agent négociateur ne peuvent élaborer un programme d'équité salariale à la date d'affichage obligatoire (terme défini). Les agents de révision ont le pouvoir de régler au moyen d'un ordre les questions en souffrance. (Article 15)
16. Approbation réputée d'un plan d'équité salariale par la Commission en l'absence d'oppositions déposées auprès de celle-ci. (Paragraphe 14 (8) et 15 (5))
17. Période de transition accordée aux petits employeurs du secteur privé avant qu'ils ne soient tenus de se conformer à la loi en ce qui concerne les pratiques existantes de rétribution dans leurs établissements (terme défini) existants. (Article 20)
18. Création de la Commission de l'équité salariale de l'Ontario, qui peut traiter des oppositions aux programmes proposés d'équité salariale et des plaintes concernant les questions qui appartiennent à sa compétence. (Articles 16, 21 et 26)
19. Imposition d'amendes pour les contraventions à la loi ou aux ordonnances de la Commission. (Article 25)
20. Nomination d'agents de révision pour enquêter au sujet des oppositions et des plaintes et pour contrôler l'élaboration et la mise en oeuvre des programmes d'équité salariale. (Paragraphe 28 (2) et article 33)
21. Examen de la loi sept ans après son entrée en vigueur. (Article 36)

Bill 154**1986**

**An Act to provide for Pay Equity
in the Broader Public Sector
and in the Private Sector**

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Projet de loi 154

1986

**Loi portant établissement de l'équité salariale
dans le secteur parapublic
et dans le secteur privé**

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Preamble

Whereas it is desirable that affirmative action be taken to redress gender discrimination in the compensation of employees employed in female job classes in the broader public sector and in the private sector in Ontario;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

General

Definitions

1.—(1) In this Act,

“agent
négociateur”
R.S.O. 1980,
c. 228

“bargaining agent” means a trade union as defined in the *Labour Relations Act* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in an establishment and includes an organization representing employees to whom this Act applies where such organization has exclusive bargaining rights under any other Act in respect of such employees;

“secteur
parapublic”
R.S.O. 1980,
c. 418

“broader public sector” means the public sector other than the Crown in right of Ontario, with respect to employees who are public servants within the meaning of the *Public Service Act*, and other than The Niagara Parks Commission, Liquor Control Board of Ontario, Liquor Licence Board, Ontario Housing Corporation, Toronto Area Transit Operating Authority and Workers’ Compensation Board;

“convention
collective”

“collective agreement” means an agreement in writing between an employer and a bargaining agent covering terms and conditions of employment;

“Commis-
sion”

“Commission” means the Pay Equity Commission of Ontario established by this Act;

“rétribution”

“compensation” means all payments and benefits paid or provided to or for the benefit of a person who performs functions that entitle the person to be paid a fixed or ascertainable amount;

“date
d’entrée
en vigueur”
“employé”

“effective date” means the day this Act comes into force;

“employee” means a person employed by an employer but does not include a student employed for his or her vacation period;

Attendu qu'il est souhaitable que des mesures concrètes soient prises aux fins d'éliminer la discrimination fondée sur le sexe en matière de rétribution des employés oeuvrant dans des catégories d'emplois à prédominance féminine dans les secteurs parapublic et privé en Ontario; Préambule

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

PARTIE I

Dispositions générales

1 (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions

«agent de révision» Personne désignée comme agent de révision aux termes du paragraphe 28 (2). «review officer»

«agent négociateur» S'entend d'un syndicat au sens de la *Loi sur les relations de travail*, en sa qualité d'agent négociateur exclusif aux termes de cette loi à l'égard d'une ou de plusieurs unités de négociation au sein d'un établissement. S'entend en outre d'une organisation qui représente des employés auxquels s'applique la présente loi, si cette organisation est titulaire de droits exclusifs de négociation en vertu d'une autre loi à l'égard de ces employés. «bargaining agent»
L.R.O. 1980,
chap. 228

«catégorie d'emplois» Les postes qui présentent, au sein d'un établissement, des fonctions et des responsabilités semblables, qui exigent des qualités semblables, dont les procédures de recrutement sont semblables et qui offrent une même grille de rétribution. «job class»

«catégorie d'emplois à prédominance féminine» S'entend, sauf lorsqu'il a été décidé qu'une catégorie d'emplois est une catégorie d'emplois à prédominance masculine telle que décrite à l'alinéa b) de la définition de «catégorie d'emplois à prédominance masculine» : «female job class»

- a) d'une catégorie d'emplois dont 60 pour cent ou plus des membres sont des femmes;
- b) d'une catégorie d'emplois qu'un agent de révision ou que la Commission décide de désigner comme catégorie d'emplois à prédominance féminine ou d'une catégorie d'emplois que l'employeur avec, le cas échéant, l'assentiment de l'agent négociateur des employés de l'employeur, décide de désigner

“employeur” “employer” means an employer in the broader public sector or in the private sector;

“établissement” “establishment” means all of the employees of an employer employed in a geographic division or in such geographic divisions as are agreed upon under section 13 or decided upon under section 14;

“catégorie d’emplois à prédominance féminine” “female job class” means, except where there has been a decision that a job class is a male job class as described in clause (b) of the definition of “male job class”,

(a) a job class in which 60 per cent or more of the members are female,

(b) a job class that a review officer or the Commission decides is a female job class or a job class that the employer, with the agreement of the bargaining agent, if any, for the employees of the employer, decides is a female job class;

“zone géographique” “geographic division” means,

(a) a county, territorial district or regional municipality described in the *Territorial Division Act*,

(b) The Municipality of Metropolitan Toronto,

and for the purposes of this Act, the Territorial District of Sudbury and The Regional Municipality of Sudbury shall be considered to be one geographic division;

“catégorie d’emplois” “job class” means those positions in an establishment that have similar duties and responsibilities and require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule;

“taux de catégorie” “job rate” means the highest rate of compensation for a job class;

“catégorie d’emplois à prédominance masculine” “male job class” means, except where there has been a decision that a job class is a female job class as described in clause (b) of the definition of “female job class”,

(a) a job class in which 70 per cent or more of the members are male, or

(b) a job class that a review officer or the Commission decides is a male job class or a job class that the employer, with the agreement of the bargaining

comme catégorie d'emplois à prédominance féminine.

«catégorie d'emplois à prédominance masculine» S'entend, sauf lorsqu'il a été décidé qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine telle que décrite à l'alinéa b) de la définition de «catégorie d'emplois à prédominance féminine» : «male job class»

- a) d'une catégorie d'emplois dont 70 pour cent ou plus des membres sont des hommes;
- b) d'une catégorie d'emplois qu'un agent de révision ou que la Commission décide de désigner comme catégorie d'emplois à prédominance masculine ou d'une catégorie d'emplois que l'employeur avec, le cas échéant, l'assentiment de l'agent négociateur des employés de l'employeur, décide de désigner comme catégorie d'emplois à prédominance masculine.

«Commission» La Commission de l'équité salariale de l'Ontario créée par la présente loi. «Commission»

«convention collective» Convention écrite conclue entre un employeur et un agent négociateur et qui traite des conditions d'emploi. «collective agreement»

«date d'entrée en vigueur» Le jour de l'entrée en vigueur de la présente loi. «effective date»

«employé» Personne employée par un employeur, à l'exception d'un étudiant employé pendant ses vacances. «employee»

«employeur» Employeur du secteur parapublic ou du secteur privé. «employer»

«établissement» Tous les employés d'un employeur employés dans une même zone géographique ou des zones géographiques convenues aux termes de l'article 13 ou déterminées aux termes de l'article 14. «establishment»

«ministre» Le membre du Conseil des ministres à qui est confiée l'application de la présente loi. «Minister»

«programme d'équité salariale» Document décrit à l'article 12. «pay equity plan»

«règlements» Les règlements pris en application de la présente loi. «regulations»

agent, if any, for the employees of the employer, decides is a male job class;

“ministre” “Minister” means the member of the Executive Council to whom the administration of this Act is assigned;

“programme d'équité salariale” “pay equity plan” means a document as described in section 12;

“secteur privé” “private sector” means all of the employers who are not in the public sector;

“secteur public” “public sector” means all of the employers who are referred to in the Schedule;

“règlements” “regulations” means the regulations made under this Act;

“agent de révision” “review officer” means a person designated as a review officer under subsection 28 (2).

Posting (2) Where this Act requires that a document be posted in the work place, the employer shall post a copy of the document in prominent places in each work place for the establishment to which the document relates in such a manner that it may be read by all of the employees in the work place.

Calculation of number of employees (3) If Part II or III applies to an employer, a reference in this Act to the number of employees of the employer shall be deemed to be a reference to the average number of employees employed in Ontario by the employer during the twelve-month period preceding the effective date or during the period from the day the first employee commenced employment in Ontario with the employer until the effective date, whichever period is shorter.

- «rétribution» Tous les paiements et avantages versés ou accordés à la personne qui exerce des fonctions lui donnant droit au versement d'une somme fixe ou vérifiable, ou au profit de cette personne. «compensation»
- «secteur parapublic» S'entend du secteur public à l'exception de la Couronne du chef de l'Ontario en ce qui concerne les employés qui sont des fonctionnaires au sens de la *Loi sur la fonction publique*, et à l'exception de la Commission des parcs du Niagara, de la Régie des alcools de l'Ontario, de la Commission des permis de vente d'alcool de l'Ontario, de la Société de logement de l'Ontario, de la Régie des transports en commun de la région de Toronto et de la Commission des accidents du travail. «broader public sector»
L.R.O. 1980, chap. 418
- «secteur privé» Tous les employeurs qui ne font pas partie du secteur public. «private sector»
- «secteur public» Tous les employeurs qui sont mentionnés à l'annexe. «public sector»
- «taux de catégorie» Taux de rétribution le plus élevé relié à une catégorie d'emplois donnée. «job rate»
- «zone géographique» S'entend : «geographic division»
- d'un comté, d'un district territorial, d'un territoire ou d'une municipalité régionale au sens de la *Loi sur la division territoriale*;
L.R.O. 1980, chap. 497
 - de la municipalité de la communauté urbaine de Toronto.
- Pour l'application de la présente loi, le district territorial de Sudbury et la municipalité régionale de Sudbury sont considérés comme formant une seule zone géographique.
- (2) Lorsque la présente loi exige l'affichage d'un écrit sur les lieux de travail, l'employeur en affiche un exemplaire dans des endroits bien en vue dans chaque lieu de travail de l'établissement auquel se rapporte l'écrit, de façon que tous les employés puissent le consulter. Affichage
- (3) Si les parties II ou III s'appliquent à un employeur, la mention dans la présente loi du nombre d'employés de l'employeur est réputée une mention du nombre moyen d'employés de l'employeur en Ontario au cours de la plus courte des périodes suivantes : soit la période de douze mois qui précède la date d'entrée en vigueur, soit la période qui se situe entre la date du début en Ontario de l'emploi, au service Calcul du nombre d'employés

Decisions re
job classes

(4) In deciding or agreeing whether a job class is a female job class or a male job class, regard shall be had to the historical incumbency of the job class, gender stereotypes of fields of work and such other criteria as may be prescribed by the regulations.

Application

2.—(1) This Act applies,

- (a) to all employers in the broader public sector;
- (b) to those employers in the private sector who employ ten or more employees in Ontario; and
- (c) to the employees of employers to whom this Act applies and to the bargaining agents, if any, of the employees.

Idem

(2) If at any time after the coming into force of this Act an employer employs ten or more employees in Ontario, this Act applies with respect to the employer although the number of employees is subsequently reduced to fewer than ten.

Purpose

3.—(1) The purpose of this Act is to redress systemic gender discrimination in compensation for work performed by employees in female job classes.

Identification
of systemic
gender dis-
crimination

(2) Systemic gender discrimination in compensation shall be identified by undertaking comparisons between each female job class in an establishment and the male job classes in the establishment in terms of relative compensation and in terms of the relative value of the work performed.

Value
determination

4. For the purposes of this Act, the criterion to be applied in determining value of work shall be a composite of the skill, effort and responsibility normally required in the performance of the work and the conditions under which it is normally performed.

Achievement
of pay equity

5.—(1) For the purposes of this Act, pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate for a male job class in the same establishment where the work performed in the two job classes is of equal or comparable value.

de l'employeur, du premier employé et la date d'entrée en vigueur.

(4) Aux fins de décider si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine, ou de convenir de la prédominance d'une catégorie d'emplois, il est tenu compte du sexe des personnes qui exercent traditionnellement ces emplois, des stéréotypes sexuels attachés à des domaines d'emplois, ainsi que des autres critères qui peuvent être prescrits par les règlements.

Détermination
de la catégorie
d'emplois

2 (1) La présente loi s'applique :

Champ
d'application

- a) à tous les employeurs du secteur parapublic;
- b) aux employeurs du secteur privé qui emploient dix employés ou plus en Ontario;
- c) aux employés des employeurs auxquels s'applique la présente loi, ainsi qu'aux agents négociateurs de ces employés, le cas échéant.

(2) Lorsqu'un employeur emploie dix employés ou plus en Ontario après l'entrée en vigueur de la présente loi, celle-ci s'applique à lui, même si le nombre de ses employés est par la suite réduit à moins de dix.

Idem

3 (1) La présente loi a pour objet d'éliminer la discrimination systémique entre les sexes, en ce qui concerne la rétribution du travail effectué par les employés dans les catégories d'emplois à prédominance féminine.

Objet

(2) Le repérage de la discrimination systémique entre les sexes en ce qui concerne la rétribution se fait au moyen de comparaisons établies entre chacune des catégories d'emplois à prédominance féminine et les catégories d'emplois à prédominance masculine dans un même établissement au niveau de la rétribution proportionnelle et de la valeur proportionnelle du travail accompli.

Repérage de
la discrimination
systémique entre les
sexes

4 Pour l'application de la présente loi, le critère qui sert à déterminer la valeur du travail se fonde sur l'habileté, l'effort et la responsabilité qu'exige normalement l'accomplissement de ce travail, ainsi que sur les conditions dans lesquelles il est normalement effectué.

Détermination
de la valeur

5 (1) Pour l'application de la présente loi, l'équité salariale est atteinte lorsque le taux de catégorie relié à la catégorie d'emplois à prédominance féminine qui fait l'objet de la com-

Équité sala-
riale atteinte

Idem

(2) Where there is no male job class with which to make a comparison for the purposes of subsection (1), pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate of a male job class in the same establishment that at the time of comparison had a higher job rate but performs work of lower value than the female job class.

Basis of
comparison

(3) If more than one comparison is possible between a female job class in an establishment and male job classes in the same establishment, pay equity is achieved when the job rate for the female job class is at least as great as the job rate for the male job class,

- (a) with the lowest job rate, if the work performed in both job classes is of equal or comparable value; and
- (b) with the highest job rate, if the work performed in the male job class is of less value.

Idem

(4) Comparisons required by this Act,

- (a) for job classes inside a bargaining unit, shall be made between job classes in the bargaining unit; and
- (b) for job classes outside any bargaining unit, shall be made between job classes that are outside any bargaining unit.

Idem

(5) If, after applying subsection (4), no male job class is found in which the work performed is of equal or comparable value to that of the female job class that is the subject of the comparison, the female job class shall be compared to male job classes throughout the establishment.

paraision est au moins égal au taux de catégorie relié à une catégorie d'emplois à prédominance masculine dans le même établissement, si le travail effectué au niveau des deux catégories est de valeur égale ou comparable.

(2) S'il n'existe aucune catégorie d'emplois à prédominance masculine avec laquelle peut être établie une comparaison pour l'application du paragraphe (1), l'équité salariale est atteinte lorsque le taux de catégorie relié à la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison est au moins égal au taux de catégorie d'une catégorie d'emplois à prédominance masculine du même établissement qui avait, au moment de la comparaison, un taux de catégorie supérieur, mais qui effectue un travail d'une valeur inférieure à ceux de la catégorie d'emplois à prédominance féminine. Idem

(3) Si une catégorie d'emplois à prédominance féminine dans un établissement et des catégories d'emplois à prédominance masculine dans le même établissement se prêtent à plusieurs comparaisons, l'équité salariale est atteinte lorsque le taux de catégorie relié à la catégorie d'emplois à prédominance féminine est au moins égal au taux de catégorie relié à la catégorie d'emplois à prédominance masculine : Fondement
de la
comparaison

- a) qui a le taux de catégorie le plus bas, si le travail effectué dans les deux catégories d'emplois est de valeur égale ou comparable;
- b) qui a le taux de catégorie le plus élevé, si le travail effectué dans la catégorie d'emplois à prédominance masculine est de valeur inférieure.

(4) Les comparaisons exigées par la présente loi sont établies : Idem

- a) entre des catégories d'emplois qui appartiennent à l'unité de négociation, en ce qui concerne les catégories d'emplois appartenant à une unité de négociation;
- b) entre des catégories d'emplois qui n'appartiennent à aucune unité de négociation, en ce qui concerne les catégories d'emplois n'appartenant pas à une unité de négociation.

(5) Lorsque, après l'application du paragraphe (4), il ne se trouve aucune catégorie d'emplois à prédominance masculine dans laquelle s'effectue un travail de valeur égale ou comparable au travail qui s'effectue dans la catégorie d'emplois à prédominance féminine qui fait l'objet de la comparaison, celle-ci Idem

Pay equity
required

6.—(1) Every employer shall establish and maintain compensation practices that provide for pay equity in every establishment of the employer.

Idem

(2) No employer or bargaining agent shall bargain for or agree to compensation practices that, if adopted, would cause a contravention of subsection (1).

Exclusions
from
determination

7.—(1) This Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of,

- (a) a formal seniority system that does not discriminate on the basis of gender;
- (b) a temporary employee training or development assignment that is equally available to male and female employees and that leads to career advancement for those involved in the program;
- (c) a merit compensation plan that is based on formal performance ratings and that has been brought to the attention of the employees and that does not discriminate on the basis of gender;
- (d) the personnel practice known as red-circling, where, based on a gender-neutral re-evaluation process, the value of a position has been down-graded and the compensation of the incumbent employee has been frozen or his or her increases in compensation have been curtailed until the compensation for the down-graded position is equivalent to or greater than the compensation payable to the incumbent; or
- (e) a skills shortage that is causing a temporary inflation in compensation because the employer is encountering difficulties in recruiting employees with the requisite skills for positions in the job class.

Idem

(2) After pay equity has been achieved in an establishment, this Act does not apply so as to prevent differences in com-

est comparée aux catégories d'emplois à prédominance masculine de l'ensemble de l'établissement.

6 (1) L'employeur établit et maintient des pratiques de rétribution assurant l'équité salariale dans chacun de ses établissements. Équité salariale obligatoire

(2) Il est interdit à l'employeur et à l'agent négociateur de négocier en vue d'obtenir l'établissement ou le maintien de pratiques de rétribution qui, si elles étaient adoptées, entraîneraient une contravention au paragraphe (1). Il leur est également interdit de convenir de telles pratiques. Idem

7 (1) La présente loi n'a pas pour effet d'empêcher un écart de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine, si l'employeur peut démontrer que l'écart résulte : Exceptions

- a) d'un système organisé d'ancienneté exempt de discrimination fondée sur le sexe;
- b) d'un programme d'affectations temporaires de formation ou de perfectionnement des employés dont peuvent se prévaloir également les employés féminins et les employés masculins et qui mène à l'avancement de ceux qui y participent;
- c) d'un régime de rétribution au mérite fondé sur un système organisé d'évaluation du rendement préalablement porté à la connaissance des employés et exempt de discrimination fondée sur le sexe;
- d) de la pratique de gestion du personnel dite du «salaire étoilé» lorsque, à la suite d'un processus non sexiste de réévaluation, un poste a été déclassé et que la rétribution de l'employé a été bloquée ou que toute augmentation de sa rétribution a été suspendue jusqu'à ce que la rétribution reliée au poste déclassé devienne égale ou supérieure à la rétribution de l'employé;
- e) de l'absence de main-d'oeuvre qualifiée qui engendre une inflation temporaire de la rétribution provoquée par la difficulté qu'éprouve l'employeur à recruter des employés satisfaisant aux exigences des postes au sein d'une catégorie d'emplois.

(2) Lorsque l'équité salariale est atteinte dans un établissement, la présente loi n'a pas pour effet d'empêcher des écarts de rétribution entre une catégorie d'emplois à prédominance Idem

pensation between a female job class and a male job class if the employer is able to show that the difference is the result of differences in bargaining strength.

Idem

(3) A position that an employer designates as a position that provides employment on a casual basis may be excluded in determining whether a job class is a female job class or a male job class and need not be included in compensation adjustments under a pay equity plan.

Idem

(4) A position shall not be designated under subsection (3) if,

- (a) the work is performed for at least one-third of the normal work period that applies to similar full-time work;
- (b) the work is performed on a seasonal basis in the same position for the same employer; or
- (c) the work is performed on a regular and continuing basis, although for less than one-third of the normal work period that applies to similar full-time work.

Reduction of
compensation
prohibited

8.—(1) An employer shall not reduce the compensation payable to any employee or reduce the rate of compensation for any position in order to achieve pay equity.

Intimidation
prohibited

(2) No employer, employee or bargaining agent and no one acting on behalf of an employer, employee or bargaining agent shall intimidate, coerce or penalize, or discriminate against, a person,

- (a) because the person may participate, or is participating, in a proceeding under this Act;
- (b) because the person has made, or may make, a disclosure required in a proceeding under this Act; or
- (c) because the person is exercising, or may exercise, any right under this Act.

féminine et une catégorie d'emplois à prédominance masculine si l'employeur peut démontrer que l'écart résulte de différences au niveau du pouvoir de négociation.

(3) Aux fins de déterminer si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine, il n'est pas nécessaire de tenir compte des postes que l'employeur désigne comme postes qui procurent de l'emploi occasionnel. Les postes ainsi désignés peuvent également être exclus lors des rajustements de la rétribution effectués en vertu d'un programme d'équité salariale. Idem

(4) Un poste n'est pas désigné aux termes du paragraphe (3) si, selon le cas : Idem

- a) la durée du travail est égale ou supérieure au tiers de la période normale de travail qui s'applique à un travail semblable à plein temps;
- b) le travail est effectué sur une base saisonnière pour le compte du même employeur et dans le cadre du même poste;
- c) le travail est effectué sur une base régulière et continue, quoique durant une période inférieure au tiers de la période normale de travail qui s'applique à un travail semblable à plein temps.

8 (1) L'employeur ne doit pas diminuer la rétribution payable à un employé ni réduire le taux de rétribution rattaché à un poste afin d'atteindre l'équité salariale. Réduction de la rétribution interdite

(2) Il est interdit à l'employeur, à l'employé, à l'agent négociateur, ainsi qu'à leurs mandataires d'intimider, de contraindre, de pénaliser une personne ou d'exercer une discrimination à son égard pour l'un des motifs suivants : Manoeuvres d'intimidation interdites

- a) elle participe ou pourrait participer à une instance intentée en vertu de la présente loi;
- b) elle a déjà fait ou pourrait faire une divulgation exigée lors d'une instance intentée en vertu de la présente loi;
- c) elle exerce ou pourrait exercer un droit en vertu de la présente loi.

PART II

Implementation: Broader Public Sector
and Large Private Sector Employers

Definition
"date
d'affichage
obligatoire"

9. In this Part, "mandatory posting date" means,

- (a) the first anniversary of the effective date, in respect of employers in the broader public sector;
- (b) the second anniversary of the effective date, in respect of employers in the private sector who have at least 500 employees on the effective date;
- (c) the third anniversary of the effective date, in respect of employers in the private sector who have at least 100 but fewer than 500 employees on the effective date;
- (d) the fourth anniversary of the effective date, in respect of employers in the private sector who have at least fifty but fewer than 100 employees on the effective date and who have posted a notice under section 19; and
- (e) the fifth anniversary of the effective date, in respect of employers in the private sector who have at least ten but fewer than fifty employees on the effective date and who have posted a notice under section 19.

Application

10.—(1) This Part applies only to employers who have employees on the effective date.

Non-
application

(2) Subject to section 19, this Part does not apply to an employer in the private sector who has fewer than 100 employees on the effective date.

Comparison
of
job classes

11. Before the mandatory posting date, every employer to whom this Part applies shall, using a gender-neutral comparison system, compare the female job classes in each establishment of the employer with the male job classes in the same establishment to determine whether pay equity exists for each female job class.

PARTIE II

Mise en oeuvre : employeurs du secteur parapublic et grands
employeurs du secteur privé

9 Dans la présente partie, «date d'affichage obligatoire» s'entend :

Définition
«mandatory
posting date»

- a) du premier anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur parapublic;
- b) du deuxième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 500 employés à leur service à la date d'entrée en vigueur;
- c) du troisième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 100, mais moins de 500 employés à leur service à la date d'entrée en vigueur;
- d) du quatrième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins cinquante, mais moins de 100 employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 19;
- e) du cinquième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins dix, mais moins de cinquante employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 19.

10 (1) La présente partie ne s'applique qu'aux employeurs qui ont des employés à leur service à la date d'entrée en vigueur.

Champ
d'application

(2) Sous réserve de l'article 19, la présente partie ne s'applique pas à l'employeur du secteur privé qui a moins de 100 employés à son service à la date d'entrée en vigueur.

Exclusion

11 Avant la date d'affichage obligatoire, l'employeur auquel s'applique la présente partie établit des comparaisons, au moyen d'un système non sexiste de comparaison, entre les catégories d'emplois à prédominance féminine de chacun de ses établissements et les catégories d'emplois à prédominance masculine des mêmes établissements aux fins de déterminer si

Comparaison
des catégories
d'emplois

Pay equity
plans
required

12.—(1) Documents, to be known as pay equity plans, shall be prepared in accordance with this Part to provide for pay equity for the female job classes in each establishment of every employer to whom this Part applies and, without restricting the generality of the foregoing,

- (a) shall identify the establishment to which the plan applies; and
- (b) shall identify all job classes which formed the basis of the comparisons under section 11.

Idem

(2) If both female job classes and male job classes exist in an establishment, every pay equity plan for the establishment,

- (a) shall describe the gender-neutral comparison system used for the purposes of section 11;
- (b) shall set out the results of the comparisons carried out under section 11;
- (c) shall identify all positions and job classes in which differences in compensation are permitted by subsection 7 (1), (2) or (3) and give the reasons for relying on such subsection;
- (d) shall, with respect to all female job classes for which pay equity does not exist according to the comparisons under section 11, describe how the compensation in those job classes will be adjusted to achieve pay equity; and
- (e) shall set out the date on which the first adjustments in compensation will be made under the plan, which date shall not be later than,
 - (i) the second anniversary of the effective date, in respect of employers in the broader public sector,
 - (ii) the third anniversary of the effective date, in respect of employers in the private sector who have at least 500 employees on the effective date,

l'équité salariale existe à l'égard de chaque catégorie d'emplois à prédominance féminine.

12 (1) Il est élaboré, conformément à la présente partie, des documents connus sous l'appellation de programmes d'équité salariale, visant à assurer l'équité salariale à l'égard des catégories d'emplois à prédominance féminine au sein de chacun des établissements de chaque employeur auquel s'applique la présente partie. Ces programmes comprennent notamment :

Programmes
obligatoires
d'équité
salariale

- a) le repérage de l'établissement visé par le programme;
- b) le repérage de toutes les catégories d'emplois sur lesquelles se fondent les comparaisons visées à l'article 11.

(2) Si un établissement comporte à la fois des catégories d'emplois à prédominance féminine et des catégories d'emplois à prédominance masculine, chaque programme d'équité salariale relatif à l'établissement :

Idem

- a) expose le système non sexiste de comparaison utilisé pour l'application de l'article 11;
- b) énonce les résultats des comparaisons établies aux termes de l'article 11;
- c) repère tous les postes et toutes les catégories d'emplois dans lesquels les paragraphes 7 (1), (2) ou (3) permettent des écarts de rétribution, et donne les motifs du recours à ces paragraphes;
- d) expose, à l'égard de toutes les catégories d'emplois à prédominance féminine où l'équité salariale n'existe pas selon les comparaisons établies aux termes de l'article 11, le mode de rajustement de la rétribution choisi pour atteindre l'équité salariale;
- e) énonce la date à laquelle seront effectués les premiers rajustements de la rétribution en vertu du programme. Cette date ne peut être postérieure :
 - (i) au deuxième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur parapublic,
 - (ii) au troisième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs

- (iii) the fourth anniversary of the effective date, in respect of employers in the private sector who have at least 100 but fewer than 500 employees on the effective date,
- (iv) the fifth anniversary of the effective date, in respect of employers in the private sector who have at least fifty but fewer than 100 employees on the effective date and who have posted a notice under section 19, and
- (v) the sixth anniversary of the effective date, in respect of employers in the private sector who have at least ten but fewer than fifty employees on the effective date and who have posted a notice under section 19.

Idem

(3) A pay equity plan shall provide that the female job class or classes that have, at any time during the implementation of the plan, the lowest job rate shall receive increases in rates of compensation under the plan that are greater than the increases under the plan for other female job classes until such time as the job rate for the female job class or classes receiving the greater increases is equal to the lesser of,

- (a) the job rate required to achieve pay equity; and
- (b) the job rate of the female job class or classes entitled to receive an adjustment under the plan with the next lowest job rate.

Minimum
adjustments

(4) The first adjustments in compensation under a pay equity plan are payable as of the date provided for in clause (2) (e) and shall be such that the combined compensation payable under all pay equity plans of the employer during the twelve-month period following the first adjustments shall be increased by an amount that is not less than the lesser of,

du secteur privé qui ont au moins 500 employés à leur service à la date d'entrée en vigueur,

- (iii) au quatrième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins 100, mais moins de 500 employés à leur service à la date d'entrée en vigueur,
- (iv) au cinquième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins cinquante, mais moins de 100 employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 19,
- (v) au sixième anniversaire de la date d'entrée en vigueur, en ce qui concerne les employeurs du secteur privé qui ont au moins dix, mais moins de cinquante employés à leur service à la date d'entrée en vigueur, et qui ont affiché l'avis visé à l'article 19.

(3) Un programme d'équité salariale prévoit qu'il sera accordé à la catégorie ou aux catégories d'emplois à prédominance féminine qui ont, pendant la période de mise en oeuvre du programme, le taux de catégorie le plus bas, une augmentation du taux de rétribution aux termes du programme qui est supérieure aux augmentations accordées aux termes du programme aux autres catégories d'emplois à prédominance féminine, jusqu'à ce que le taux de catégorie de la catégorie ou des catégories d'emplois à prédominance féminine qui reçoivent l'augmentation supérieure soit égal au moins élevé des taux suivants : Idem

- a) le taux de catégorie nécessaire pour atteindre l'équité salariale;
- b) le taux de catégorie de la catégorie ou des catégories d'emplois à prédominance féminine ayant droit à un rajustement aux termes du programme et dont le taux de catégorie se classe immédiatement au-dessus de celui de la catégorie ou des catégories d'emplois visées.

(4) Les premiers rajustements de la rétribution en vertu d'un programme d'équité salariale sont versables à la date prévue à l'alinéa (2) e) et sont tels que la rétribution combinée payable aux termes de l'ensemble des programmes

Rajustements
minimaux

- (a) 1 per cent of the employer's payroll during the twelve-month period preceding the first adjustments; and
- (b) the amount required to achieve pay equity.

Idem

(5) An employer shall make adjustments in rates of compensation until pay equity is achieved under the pay equity plans of the employer such that during the twelve-month period following each anniversary of the first adjustments the combined compensation payable shall be increased by an amount that is not less than the lesser of,

- (a) 1 per cent of the employer's payroll during the twelve-month period preceding the anniversary; and
- (b) the amount required to achieve pay equity.

Maximum adjustments

(6) Except for the purpose of making retroactive adjustments in compensation under a pay equity plan or unless required to do so by an order described in clause 35 (g), nothing in this Act requires an employer to increase compensation payable under the pay equity plans of the employer during a twelve-month period in an amount greater than 1 per cent of the employer's payroll during the preceding twelve-month period.

Definition
"feuille de paie"

(7) In this section, "payroll" means the total of all wages and salaries payable to the employees in Ontario of the employer.

Pay equity plan binding

(8) A pay equity plan that is approved under this Part binds the employer and the employees to whom the plan applies and their bargaining agent, if any.

Plan to prevail

(9) A pay equity plan that is approved under this Part prevails over all relevant collective agreements and the adjustments to rates of compensation required by the plan shall be deemed to be incorporated into and form part of the relevant collective agreements.

d'équité salariale de l'employeur au cours des douze mois qui suivent les premiers rajustements est majorée d'une somme qui n'est pas inférieure à la moins élevée des deux sommes suivantes :

- a) la somme qui représente 1 pour cent de la feuille de paie de l'employeur relative à la période de douze mois qui précède les premiers rajustements;
- b) la somme nécessaire pour atteindre l'équité salariale.

(5) L'employeur effectue des rajustements aux taux de rétribution jusqu'à ce que soit atteinte l'équité salariale en vertu des programmes d'équité salariale de l'employeur. Ces rajustements additionnels sont effectués de façon que la rétribution combinée payable au cours de la période de douze mois qui suit chaque anniversaire des premiers rajustements soit majorée d'une somme qui n'est pas inférieure à la moins élevée des deux sommes suivantes :

Idem

- a) la somme qui représente 1 pour cent de la feuille de paie de l'employeur relative à la période de douze mois qui précède l'anniversaire;
- b) la somme nécessaire pour atteindre l'équité salariale.

(6) Sauf dans le but d'effectuer des rajustements rétroactifs à la rétribution en vertu d'un programme d'équité salariale ou à moins qu'il y soit tenu aux termes d'une ordonnance visée à l'alinéa 35 g), la présente loi n'a pas pour effet d'obliger un employeur à majorer la rétribution payable aux termes des programmes d'équité salariale de l'employeur au cours d'une période de douze mois d'une somme qui représente plus de 1 pour cent de la feuille de paie de l'employeur relative à la période précédente de douze mois.

Rajustements maximaux

(7) Dans le présent article, «feuille de paie» s'entend de la totalité des salaires et traitements payables aux employés de l'employeur en Ontario.

Définition «payroll»

(8) Le programme d'équité salariale approuvé aux termes de la présente partie lie l'employeur et les employés auxquels il s'applique, ainsi que leur agent négociateur, le cas échéant.

Le programme d'équité salariale lie les parties

(9) Le programme d'équité salariale approuvé aux termes de la présente partie l'emporte sur toute convention collective pertinente. Les rajustements des taux de rétribution qu'exige

Le programme l'emporte

Deemed
compliance

(10) Every employer who prepares and implements a pay equity plan under this Part shall be deemed not to be in contravention of subsection 6 (1) with respect to those employees covered by the plan or plans that apply to the employees but only with respect to those compensation practices that existed immediately before the effective date.

Establish-
ments with
bargaining
units

13.—(1) In an establishment in which any of the employees are represented by a bargaining agent, there shall be a pay equity plan for each bargaining unit and a pay equity plan for that part of the establishment that is not in any bargaining unit.

Bargaining
unit plans

(2) The employer and the bargaining agent for a bargaining unit shall negotiate in good faith and endeavour to agree, before the mandatory posting date, on,

- (a) the gender-neutral comparison system used for the purposes of section 11; and
- (b) a pay equity plan for the bargaining unit.

Idem

(3) As part of the negotiations required by subsection (2), the employer and the bargaining agent may agree, for the purposes of the pay equity plan,

- (a) that the establishment of the employer includes two or more geographic divisions; and
- (b) that a job class is a female job class or a male job class.

Posting
of plan

(4) When an employer and a bargaining agent agree on a pay equity plan, they shall execute the agreement and, on or before the mandatory posting date, the employer shall post a copy of the plan in the work place.

Deemed
approval and
first
adjustments

(5) When a pay equity plan has been executed by an employer and a bargaining agent, the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

le programme sont réputés incorporés aux conventions collectives pertinentes et en faire partie intégrante.

(10) L'employeur qui prépare et met en oeuvre un programme d'équité salariale aux termes de la présente partie est réputé ne pas contrevenir au paragraphe 6 (1) en ce qui concerne les employés visés par le plan ou les plans qui s'appliquent aux employés, mais seulement en ce qui a trait aux pratiques de rétribution qui existaient immédiatement avant la date d'entrée en vigueur.

Conformité
réputée

13 (1) Il doit être élaboré, dans tout établissement où des employés sont représentés par un agent négociateur, un programme d'équité salariale relié à chaque unité de négociation, ainsi qu'un programme d'équité salariale relié à la partie de l'établissement dont les membres n'appartiennent pas à une unité de négociation.

Établissements dotés
d'unités de
négociation

(2) L'employeur et l'agent négociateur d'une unité de négociation négocient de bonne foi et s'efforcent de convenir, avant à la date d'affichage obligatoire :

Programmes
reliés à une
unité de
négociation

- a) du système non sexiste de comparaison utilisé pour l'application de l'article 11;
- b) d'un programme d'équité salariale relié à l'unité de négociation.

(3) Dans le cadre des négociations exigées par le paragraphe (2), l'employeur et l'agent négociateur peuvent, pour les fins du programme d'équité salariale, convenir de ce qui suit :

Idem

- a) que l'établissement de l'employeur comprend deux ou plusieurs zones géographiques;
- b) qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(4) L'employeur et l'agent négociateur qui ont convenu d'un programme d'équité salariale y apposent leur signature. À la date d'affichage obligatoire ou antérieurement à celle-ci, l'employeur affiche une copie du programme sur les lieux de travail.

Affichage du
programme

(5) Le programme d'équité salariale qui porte la signature de l'employeur et celle de l'agent négociateur est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Approbation
réputée et
premiers
rajustements

Failure
to agree

(6) Where an employer and a bargaining agent fail to agree on a pay equity plan by the mandatory posting date, the employer, forthwith after that date, shall give notice of the failure to the Commission.

Idem

(7) Subsection (6) does not prevent the bargaining agent from notifying the Commission of a failure to agree on a pay equity plan by the mandatory posting date.

Non-
bargaining
unit plan

(8) An employer shall prepare a pay equity plan for that part of the employer's establishment that is outside any bargaining unit in the establishment and, on or before the mandatory posting date, shall post a copy of the plan in the work place.

Idem

(9) Subsections 14 (2) to (8) apply to a pay equity plan described in subsection (8).

Establish-
ments
without
bargaining
units

14.—(1) In an establishment where no employee is represented by a bargaining agent, the employer shall prepare a pay equity plan for the employer's establishment and the employer, on or before the mandatory posting date, shall post a copy of the plan in the work place.

Idem

(2) For the purposes of a pay equity plan required by this section or subsection 13 (8), the employer may decide,

- (a) that the establishment of the employer includes two or more geographic divisions; and
- (b) that a job class is a female job class or a male job class.

Idem

(3) An agreement under section 13 between an employer and a bargaining agent shall not affect any pay equity plan required by this section or subsection 13 (8).

Employee
review

(4) The employees to whom a pay equity plan required by this section or subsection 13 (8) applies shall have until the ninetieth day after the mandatory posting date to review and submit comments to the employer on the plan.

Changes

(5) If as a result of comments received during the review period referred to in subsection (4), the employer is of the opinion that a pay equity plan should be changed, the employer may change the plan.

(6) Si l'employeur et l'agent négociateur n'ont pas convenu d'un programme d'équité salariale à la date d'affichage obligatoire, l'employeur en avise sans délai la Commission. Absence d'entente

(7) Le paragraphe (6) n'a pas pour effet d'empêcher l'agent négociateur d'aviser la Commission du défaut de convenir d'un programme d'équité salariale à la date d'affichage obligatoire ou antérieurement à celle-ci. Idem

(8) L'employeur élabore un programme d'équité salariale destiné aux employés de son établissement qui n'appartiennent à aucune des unités de négociation de l'établissement. À la date d'affichage obligatoire ou antérieurement à celle-ci, il affiche une copie du programme sur les lieux de travail. Programme non relié à une unité de négociation

(9) Les paragraphes 14 (2) à (8) s'appliquent au programme d'équité salariale décrit au paragraphe (8). Idem

14 (1) L'employeur dont l'établissement ne compte aucun employé représenté par un agent négociateur élabore un programme d'équité salariale à l'égard de son établissement. L'employeur, à la date d'affichage obligatoire ou antérieurement à celle-ci, affiche une copie du programme sur les lieux de travail. Établissements dépourvus d'unités de négociation

(2) Pour l'application du programme d'équité salariale exigé par le présent article ou par le paragraphe 13 (8), l'employeur peut décider : Idem

- a) que son établissement comprend deux ou plusieurs zones géographiques;
- b) qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(3) L'entente intervenue en vertu de l'article 13 entre l'employeur et l'agent négociateur n'a pas d'incidence sur le programme d'équité salariale exigé par le présent article ou par le paragraphe 13 (8). Idem

(4) Les employés visés par un programme d'équité salariale exigé par le présent article ou par le paragraphe 13 (8) peuvent examiner le programme et présenter leurs observations à l'employeur jusqu'au quatre-vingt-dixième jour suivant la date d'affichage obligatoire. Examen par l'employé

(5) L'employeur qui, à la suite des observations reçues au cours de la période d'examen visée au paragraphe (4), est Modification

Posting of
notice

(6) Not later than seven days after the end of the review period referred to in subsection (4), the employer shall post in the work place a notice stating whether the pay equity plan has been amended under this section and, if the plan has been amended, the employer shall also post a copy of the amended plan with the amendments clearly indicated.

Objections

(7) Any employee or group of employees to whom a pay equity plan applies, within thirty days following a posting in respect of the plan under subsection (6), may file a notice of objection with the Commission whether or not the employee or group of employees has submitted comments to the employer under subsection (4).

Deemed
approval
and first
adjustments

(8) If no objection in respect of a pay equity plan is filed with the Commission under subsection (7), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

Investigation
by review
officer and
settlement

15.—(1) If the Commission,

- (a) is advised by an employer or a bargaining agent that no agreement has been reached on a pay equity plan under section 13; or
- (b) receives a notice of objection under subsection 14 (7),

a review officer shall investigate the matter and endeavour to effect a settlement.

Orders by
review officer

(2) If the review officer is unable to effect a settlement as provided for in subsection (1), he or she shall, by order, decide all outstanding matters.

Posting of
plan

(3) Where a review officer effects a settlement under subsection (1) or makes an order under subsection (2), the employer shall forthwith post in the work place a copy of the pay equity plan that reflects the settlement or order.

Objections

(4) Where a pay equity plan has been posted under subsection (3), objections with respect to the plan may be filed with the Commission within thirty days of the posting as follows:

d'avis que des modifications au programme d'équité salariale s'imposent, peut y apporter des modifications.

(6) Dans les sept jours qui suivent la fin de la période d'examen visée au paragraphe (4), l'employeur affiche sur les lieux de travail un avis qui indique si le programme d'équité salariale a été modifié ou non aux termes du présent article. Si le programme a été modifié, l'employeur affiche également une copie du programme modifié sur laquelle les modifications sont clairement indiquées.

Affichage
d'un avis

(7) Dans les trente jours de l'affichage concernant un programme d'équité salariale aux termes du paragraphe (6), l'employé ou le groupe d'employés visés par le programme peuvent déposer un avis d'opposition auprès de la Commission, qu'ils aient présenté ou non leurs observations à l'employeur aux termes du paragraphe (4).

Oppositions

(8) S'il n'est déposé aucune opposition à un programme d'équité salariale auprès de la Commission en vertu du paragraphe (7), le programme est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Approbation
réputée et
premiers
rajustements

15 (1) Lorsque la Commission :

Enquête par
l'agent de
révision et
règlement

- a) ou bien est avisée par l'employeur ou l'agent négociateur qu'aucune entente n'est intervenue au sujet du programme d'équité salariale aux termes de l'article 13;
- b) ou bien reçoit l'avis d'opposition visé au paragraphe 14 (7),

un agent de révision mène une enquête à ce sujet et tente d'amener les parties à accepter un règlement.

(2) Si l'agent de révision ne peut parvenir à amener les parties à accepter le règlement visé au paragraphe (1), il règle toutes les questions en souffrance au moyen d'un ordre.

Ordre de
l'agent de
révision

(3) Si l'agent de révision amène les parties à accepter un règlement aux termes du paragraphe (1) ou donne un ordre aux termes du paragraphe (2), l'employeur affiche sans délai sur les lieux de travail une copie du programme d'équité salariale qui reflète le règlement ou l'ordre.

Affichage du
programme

(4) Des oppositions au programme d'équité salariale affiché en vertu du paragraphe (3), peuvent être déposées auprès de

Oppositions

1. If the plan relates to a bargaining unit, objections may be filed only if the review officer has made an order under subsection (2) and only the employer or the bargaining agent for the bargaining unit may file objections.
2. If the plan does not relate to a bargaining unit and a review officer effected a settlement under subsection (1) with the agreement of the objector who filed the objection under subsection 14 (7), only an employee or group of employees to whom the plan applies, other than the objector, may file an objection.
3. If the plan does not relate to a bargaining unit and a review officer has made an order under subsection (2), the employer or any employee or group of employees to whom the plan applies may file an objection.

Deemed
approval
and first
adjustments

(5) If a review officer effects a settlement of a pay equity plan for a bargaining unit under subsection (1) or, if in any other case, no objection in respect of a pay equity plan is filed with the Commission in accordance with subsection (4), the plan shall be deemed to have been approved by the Commission and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

Idem

(6) Where adjustments in compensation are made after the day provided for in the pay equity plan, the employer shall make the adjustments retroactive to that date.

Hearing
before
Commission

16.—(1) If the Commission receives a notice of objection under subsection 15 (4), the Commission shall hold a hearing and, in its decision, shall settle the pay equity plan to which the objection relates.

Posting of
plan

(2) Forthwith after receiving the Commission's decision, the employer shall post a copy of the decision in the work place and, on the day provided for in the plan, shall make the first adjustments in compensation required to achieve pay equity.

la Commission dans les trente jours de l'affichage, selon les modalités suivantes :

1. Si le programme est relié à une unité de négociation, des oppositions peuvent être déposées seulement si l'agent de révision a donné un ordre aux termes du paragraphe (2). Dans ce cas, seuls l'employeur ou l'agent négociateur de l'unité de négociation peuvent déposer une opposition.
2. Si le programme n'est pas relié à une unité de négociation et qu'un agent de révision a amené, aux termes du paragraphe (1), les parties à accepter un règlement avec le consentement de l'opposant qui a déposé l'opposition aux termes du paragraphe 14 (7), seuls un employé ou le groupe d'employés visés par le programme, autre que l'opposant, peuvent déposer une opposition.
3. Si le programme n'est pas relié à une unité de négociation et qu'un agent de révision a donné un ordre aux termes du paragraphe (2), l'employeur, un employé ou un groupe d'employés visés par le programme peuvent déposer une opposition.

(5) Si un agent de révision amène les parties à accepter, aux termes du paragraphe (1), un règlement relatif à un programme d'équité salariale relié à une unité de négociation, ou que, dans tout autre cas, aucune opposition n'a été déposée auprès de la Commission au sujet d'un programme d'équité salariale aux termes du paragraphe (4), le programme est réputé avoir reçu l'approbation de la Commission. L'employeur, à la date prévue au programme, effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Approbation
réputée et
premiers
rajustements

(6) Si des rajustements de la rétribution sont effectués après la date prévue au programme d'équité salariale, l'employeur rend ces rajustements rétroactifs à cette date.

Idem

16 (1) Si la Commission reçoit un avis d'opposition en vertu du paragraphe 15 (4), elle tient une audience et règle, dans sa décision, le programme d'équité salariale qui fait l'objet de l'opposition.

Audience
devant la
Commission

(2) Lorsqu'il reçoit la décision de la Commission, l'employeur en affiche sans délai une copie sur les lieux de travail. À la date prévue au programme, il effectue les premiers rajustements de la rétribution nécessaires pour atteindre l'équité salariale.

Affichage du
programme

Idem

(3) Where adjustments in compensation are made after the day provided for in a pay equity plan, the employer shall make the adjustments retroactive to that date.

PART III

Implementation: Small Private Sector Employers

Application

17. This Part applies only to employers in the private sector who, on the effective date, employ more than nine and fewer than 100 employees.

Pay equity plans

18. An employer to whom this Part applies may establish pay equity plans for any of the employer's establishments.

Posting of notice

19.—(1) An employer who decides to establish a pay equity plan or plans for an establishment, as provided for in section 18, shall give notice of the decision to the bargaining agents, if any, for employees in the establishment and shall post a notice of the decision in the work place.

Application of Part II

(2) Upon the posting of the notice referred to in subsection (1), Part II applies to the establishment to which the notice relates and this Part ceases to apply to the employer with respect to that establishment.

Transition

20.—(1) Notwithstanding subsection 6 (1) or (2), an employer to whom this Part applies may maintain compensation practices that were in existence in the employer's establishment immediately before the effective date,

- (a) until the fifth anniversary of the effective date, if the employer employs at least fifty but fewer than 100 employees on the effective date; and
- (b) until the sixth anniversary of the effective date, if the employer employs at least ten but fewer than fifty employees on the effective date,

and, until the relevant anniversary date, a compensation change that is the same in percentage terms for female job classes and male job classes in the establishment shall be deemed not to be a contravention of those subsections even though the change is different in dollar terms for a female job class than for a male job class.

(3) Si des rajustements de la rétribution sont effectués après la date prévue au programme d'équité salariale, l'employeur rend ces rajustements rétroactifs à cette date.

Idem

PARTIE III

Mise en oeuvre : petits employeurs du secteur privé

17 La présente partie ne s'applique qu'aux employeurs du secteur privé qui, à la date d'entrée en vigueur, ont à leur service plus de neuf, mais moins de 100 employés.

Champ d'application

18 L'employeur auquel s'applique la présente partie peut établir des programmes d'équité salariale à l'égard de chacun de ses établissements.

Programme d'équité salariale

19 (1) L'employeur qui décide d'établir, aux termes de l'article 18, un ou plusieurs programmes d'équité salariale à l'égard de son établissement, avise de sa décision les agents négociateurs des employés de son établissement, le cas échéant, et affiche un avis de cette décision sur les lieux de travail.

Affichage de l'avis

(2) Dès que l'employeur affiche l'avis prévu au paragraphe (1), la partie II s'applique à l'établissement visé par l'avis et la présente partie cesse alors de s'appliquer à l'employeur à l'égard de cet établissement.

Cas d'application de la partie II

20 (1) Malgré les paragraphes 6 (1) ou (2), l'employeur auquel s'applique la présente partie peut maintenir les pratiques de rétribution qui avaient cours dans son établissement immédiatement avant la date d'entrée en vigueur :

Disposition transitoire

- a) jusqu'au cinquième anniversaire de la date d'entrée en vigueur, si l'employeur a au moins cinquante, mais moins de 100 employés à son service à la date d'entrée en vigueur;
- b) jusqu'au sixième anniversaire de la date d'entrée en vigueur, si l'employeur a au moins dix, mais moins de cinquante employés à son service à la date d'entrée en vigueur.

Jusqu'à l'anniversaire pertinent, la modification de la rétribution qui est la même, en termes de pourcentage, à l'égard des catégories d'emplois à prédominance féminine qu'à l'égard des catégories d'emplois à prédominance masculine dans l'établissement, est réputée ne pas contrevenir à ces paragraphes, même si, en termes absolus, la modification qui est faite à l'égard des catégories d'emplois à prédominance féminine dif-

Repeal (2) This Part is repealed on the sixth anniversary of the effective date.

PART IV

Enforcement

Complaints **21.**—(1) Any employer or employee, or the bargaining agent, if any, representing the employee may file a complaint with the Commission complaining that there has been a contravention of this Act, the regulations or an order of the Commission.

Idem (2) Any employee or the bargaining agent, if any, representing the employee may file a complaint with the Commission complaining with respect to a pay equity plan that applies to the employee that,

(a) the plan is not being implemented according to its terms; or

(b) because of changed circumstances in the establishment, the plan is not appropriate for the female job class to which the employee belongs.

Combining of complaints (3) The Commission may combine two or more complaints and deal with them in one proceeding if the complaints,

(a) are made against the same person and bring into question the same or a similar issue; or

(b) have questions of law or fact in common.

Investigation of complaints **22.**—(1) Subject to subsection (2), when the Commission receives a complaint, a review officer shall investigate the complaint and endeavour to effect a settlement.

Decision to not deal with complaint (2) A review officer may decide that a complaint should not be considered if the review officer is of the opinion that,

(a) the subject-matter of the complaint is trivial, frivolous, vexatious or made in bad faith; or

fière de celle qui est faite à l'égard des catégories d'emplois à prédominance masculine.

(2) La présente partie est abrogée le jour du sixième anniversaire de la date d'entrée en vigueur. Abrogation

PARTIE IV

Exécution de la loi

21 (1) Un employeur, un employé ou, le cas échéant, un agent négociateur qui représente l'employé, peuvent déposer auprès de la Commission une plainte signalant qu'il y a eu contravention à la présente loi, aux règlements ou à une ordonnance de la Commission. Plaintes

(2) L'employé ou, le cas échéant, l'agent négociateur qui le représente, peuvent déposer auprès de la Commission, à l'égard du programme d'équité salariale qui vise cet employé, une plainte précisant, selon le cas : Idem

- a) que la mise en oeuvre du programme ne s'effectue pas conformément à ses modalités;
- b) qu'en raison d'un changement de la situation au sein de l'établissement, le programme ne convient pas à la catégorie d'emplois à prédominance féminine à laquelle appartient l'employé.

(3) La Commission peut réunir deux ou plusieurs plaintes et en traiter au cours d'une même instance, si ces plaintes, selon le cas : Réunion de plaintes

- a) sont formulées contre la même personne et se rapportent au même point en litige ou à un point semblable;
- b) soulèvent les mêmes questions de droit ou de fait.

22 (1) Sous réserve du paragraphe (2), un agent de révision mène une enquête concernant la plainte reçue par la Commission et tente d'amener les parties à accepter un règlement. Enquêtes au sujet des plaintes

(2) L'agent de révision peut décider de ne pas examiner la plainte s'il est d'avis que, selon le cas : Décision de ne pas traiter de la plainte

- a) la plainte est futile, frivole, vexatoire ou faite de mauvaise foi;

- (b) the complaint is not within the jurisdiction of the Commission.

Hearing
before
Commission

(3) The review officer shall notify the complainant of his or her decision under subsection (2) and the complainant may request a hearing before the Commission with respect to the decision.

Orders by
review
officers

23.—(1) Where a review officer is of the opinion that a pay equity plan is not being prepared as required by Part II, the review officer may order the employer and the bargaining agent, if any, to take such steps as are set out in the order to prepare the plan.

Idem

(2) Where a review officer is of the opinion that a pay equity plan is not being implemented according to its terms, the review officer may order the employer to take such steps as are set out in the order to implement the plan.

Idem

(3) Where a review officer is of the opinion that there has been a contravention of subsection 6 (1) or (2), the review officer may order the employer and the bargaining agent, if any, to take such steps as are set out in the order to comply with either or both of those subsections.

Idem

(4) An order under subsection (1) may provide for a mandatory posting date that is later than the one provided in section 9.

Reference to
Commission

(5) Where an employer or a bargaining agent fails to comply with an order under this section, a review officer may refer the matter to the Commission.

Hearing
before
Commission

(6) An employer or bargaining agent named in an order under this section may request a hearing before the Commission with respect to the order.

Hearings

24.—(1) The Commission shall hold a hearing,

- (a) if a review officer is unable to effect a settlement of a complaint;
- (b) if a request for a hearing, as described in subsection 22 (3) or 23 (6), is received by the Commission; or
- (c) if a review officer refers a matter to the Commission under subsection 23 (5).

b) la plainte n'est pas du ressort de la Commission.

(3) L'agent de révision avise le plaignant de la décision qu'il a prise aux termes du paragraphe (2), et le plaignant peut demander à la Commission de tenir une audience à l'égard de la décision.

Audience
devant la
Commission

23 (1) L'agent de révision qui est d'avis qu'un programme d'équité salariale n'est pas en cours d'élaboration tel que l'exige la partie II peut ordonner à l'employeur et à l'agent négociateur, le cas échéant, de prendre les mesures énoncées dans son ordre en vue d'élaborer le programme.

Ordres des
agents de
révision

(2) L'agent de révision qui est d'avis qu'un programme d'équité salariale n'est pas mis en oeuvre conformément à ses modalités peut ordonner à l'employeur de prendre les mesures énoncées dans son ordre aux fins de mettre en oeuvre le programme.

Idem

(3) L'agent de révision qui est d'avis qu'il y a eu contravention aux paragraphes 6 (1) ou (2) peut ordonner à l'employeur et à l'agent négociateur, le cas échéant, de prendre les mesures énoncées dans son ordre aux fins de se conformer à l'un ou l'autre de ces paragraphes ou aux deux.

Idem

(4) Un ordre donné aux termes du paragraphe (1) peut prévoir une date d'affichage obligatoire postérieure à celle que prévoit l'article 9.

Idem

(5) Si l'employeur ou l'agent négociateur ne se conforment pas à l'ordre donné aux termes du présent article, un agent de révision peut renvoyer la question à la Commission.

Renvoi
devant la
Commission

(6) Un employeur ou un agent négociateur nommés dans l'ordre donné aux termes du présent article peuvent demander à la Commission de tenir une audience à cet égard.

Audience
devant la
Commission

24 (1) La Commission tient une audience dans les cas suivants :

Audiences

- a) si l'agent de révision ne peut amener les parties à accepter un règlement relativement à la plainte;
- b) si la Commission reçoit une demande d'audience prévue aux paragraphes 22 (3) ou 23 (6);
- c) si l'agent de révision renvoie une question devant la Commission aux termes du paragraphe 23 (5).

Commission
orders

(2) The Commission shall decide the issue that is before it for a hearing and, without restricting the generality of the foregoing, the Commission,

- (a) where it finds that an employer or a bargaining agent has failed to comply with Part II, may order that a review officer prepare a pay equity plan for the employer's establishment and that the employer and the bargaining agent, if any, or either of them, pay all of the costs of preparing the plan;
- (b) may confirm, vary or revoke orders of review officers;
- (c) may, for the female job class that is the subject of the complaint or reference, order adjustments in compensation in order to achieve pay equity, where the Commission finds that there has been a contravention of subsection 6 (1);
- (d) may order that the pay equity plan be revised in such manner as the Commission considers appropriate, where it finds that the plan is not appropriate for the female job class that is the subject of the complaint or reference because there has been a change of circumstances in the establishment; and
- (e) may order a party to a proceeding to take such action or refrain from such action as in the opinion of the Commission is required in the circumstances.

Idem

(3) An order under clause (2) (a) may provide that a review officer may retain the services of such experts as the review officer considers necessary to prepare a pay equity plan.

Application
of Part II

(4) Part II, except section 15, applies with necessary modifications to a pay equity plan prepared under clause (2) (a) but,

- (a) the order of the Commission may provide for a mandatory posting date that is later than the one provided in section 9;

(2) La Commission règle la question dont elle est saisie, et peut notamment :

Ordonnances
de la
Commission

- a) enjoindre à l'agent de révision d'élaborer un programme d'équité salariale destiné à l'établissement de l'employeur, lorsqu'elle constate que ce dernier ou l'agent négociateur ne se sont pas conformés à la partie II. Elle peut aussi enjoindre à l'employeur et à l'agent négociateur, le cas échéant, ou à l'un d'eux, d'acquitter la totalité des frais d'élaboration du programme;
- b) confirmer, modifier ou révoquer les ordres des agents de révision;
- c) ordonner, à l'égard de la catégorie d'emplois à prédominance féminine qui fait l'objet de la plainte ou du renvoi, que des rajustements de la rétribution soient effectués pour atteindre l'équité salariale, lorsqu'elle constate qu'il y a eu contravention au paragraphe 6 (1);
- d) ordonner que le programme d'équité salariale soit révisé de la manière que la Commission estime appropriée lorsqu'elle constate que le programme ne convient pas à la catégorie d'emplois à prédominance féminine qui fait l'objet de la plainte ou du renvoi en raison d'un changement de la situation au sein de l'établissement;
- e) enjoindre à une partie à l'instance soit de prendre certaines mesures, soit de s'en abstenir, selon ce que la Commission juge nécessaire dans les circonstances.

(3) L'ordonnance prise en vertu de l'alinéa (2) a) peut permettre à l'agent de révision de retenir les services des experts que celui-ci estime nécessaires en vue d'élaborer un programme d'équité salariale.

Idem

(4) À l'exception de l'article 15, la partie II s'applique avec les adaptations nécessaires au programme d'équité salariale élaboré en vertu de l'alinéa (2) a). Toutefois :

Cas d'applica-
tion de la
partie II

- a) l'ordonnance prise par la Commission peut prévoir une date d'affichage obligatoire postérieure à celle que prévoit l'article 9;

- (b) the order of the Commission shall not provide for a compensation adjustment date that is different than the relevant date set out in clause 12 (2) (e);
- (c) the review officer shall perform the duties of the employer and the bargaining agent, if any;
- (d) when the review officer posts the plan in the work place as subsection 13 (4) or 14 (6) provides, the employer, the bargaining agent (if the plan relates to a bargaining unit), or any employee or group of employees to whom the plan applies (if the plan does not relate to a bargaining unit) may file an objection with the Commission; and
- (e) an objection under clause (d) shall be dealt with by the Commission under section 16.

Retroactive
compensation
adjustments

(5) An order under clause (2) (c) may be retroactive to the day of the contravention of subsection 6 (1).

Idem

(6) An order under clause (2) (d) may provide that adjustments in compensation resulting from the revision of the pay equity plan be made retroactive to the day of the change in circumstances that gave rise to the order.

Offences and
penalties

25.—(1) Every person who contravenes or fails to comply with this Act or an order of the Commission is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, in the case of an individual, and not more than \$25,000, in any other case.

Parties

(2) If a corporation or bargaining agent contravenes this Act or an order of the Commission, every officer, official or agent thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation or bargaining agent has been prosecuted or convicted.

Prosecution
against
bargaining
agent

(3) A prosecution for an offence under this Act may be instituted against a bargaining agent in its own name.

- b) l'ordonnance de la Commission ne prévoit pas une date de rajustement de la rétribution différente de la date pertinente énoncée à l'alinéa 12 (2) e);
- c) l'agent de révision exerce les fonctions de l'employeur et de l'agent négociateur, le cas échéant;
- d) lorsque l'agent de révision affiche le programme sur les lieux de travail comme le prévoient les paragraphes 13 (4) ou 14 (6), l'employeur, l'agent négociateur (si le programme est relié à une unité de négociation) ou un employé ou un groupe d'employés visés par le programme (si le programme n'est pas relié à une unité de négociation) peuvent déposer une opposition auprès de la Commission;
- e) la Commission traite de l'opposition visée à l'alinéa d) aux termes de l'article 16.

(5) L'ordonnance prise aux termes de l'alinéa (2) c) peut avoir un effet rétroactif au jour de la contravention au paragraphe 6 (1). Rajustements
rétroactifs de
la rétribution

(6) L'ordonnance prise aux termes de l'alinéa (2) d) peut prévoir que les rajustements de la rétribution résultant de la révision du programme d'équité salariale ont un effet rétroactif au jour où s'est produit le changement de situation qui a donné lieu à l'ordonnance. Idem

25 (1) Quiconque contrevient aux dispositions de la présente loi ou d'une ordonnance de la Commission ou ne s'y conforme pas, est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 2 000 \$ dans le cas d'une personne physique, et d'au plus 25 000 \$ dans les autres cas. Infractions et
peines

(2) Si une personne morale ou un agent négociateur contreviennent à une disposition de la présente loi ou d'une ordonnance de la Commission, le dirigeant, l'employé ou le mandataire qui autorise ou permet la contravention ou y donne son consentement est partie à l'infraction, en est coupable et, sur déclaration de culpabilité, est passible de la peine prévue pour cette infraction, que la personne morale ou l'agent négociateur aient été ou non poursuivis ou déclarés coupables de l'infraction. Parties

(3) Une poursuite relative à une infraction à la présente loi peut être intentée contre l'agent négociateur en tant que tel. Poursuite
contre l'agent
négociateur

Consent

(4) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Commission.

PART V

Administration

Commission established

26. There is hereby established a commission to be known as the Pay Equity Commission of Ontario.

Composition and appointment

27.—(1) The Commission shall be composed of a presiding officer, one or more deputy presiding officers and as many other members equal in number representative of employers and employees respectively as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council.

Alternate presiding officer

(2) The Lieutenant Governor in Council shall designate one of the deputy presiding officers to be alternate presiding officer and the person so designated, in the absence of the presiding officer or if the presiding officer is unable to act, shall have all of the powers of the presiding officer.

Remuneration and expenses

(3) The members of the Commission who are not Crown employees shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and, subject to the approval of Management Board of Cabinet, the reasonable expenses incurred by them in the course of their duties under this Act.

Resignation of member

(4) Where a member of the Commission resigns, he or she may carry out and complete any duties or responsibilities and exercise any powers that he or she would have had if he or she had not ceased to be a member, in connection with any matter in respect of which there was any proceeding in which he or she participated as a member of the Commission.

Services of ministries, boards, etc.

(5) In exercising its powers under this Act, the Commission shall, if appropriate, make use of the services and facilities of a ministry, board, commission or agency of the Government of Ontario.

Staff and other assistance
R.S.O. 1980,
c. 418

(6) Such persons as are necessary for the proper conduct of the Commission's work may be appointed as employees of the Commission under the *Public Service Act* and the Commission, subject to the approval of Management Board of Cabinet, may engage, under contract, the persons, including professionals and experts, that it considers necessary to exercise its powers and to carry out its duties.

(4) Il ne peut être intenté aucune poursuite relative à une infraction à la présente loi sans le consentement écrit de la Commission.

Consentement

PARTIE V

Application de la loi

26 Est créée une commission nommée Commission de l'équité salariale de l'Ontario.

Création de la Commission

27 (1) La Commission se compose d'un président, d'un ou de plusieurs vice-présidents, et du nombre d'autres membres répartis en un nombre égal de représentants des employeurs et des employés que le lieutenant-gouverneur en conseil juge approprié. Toutes ces personnes sont nommées par le lieutenant-gouverneur en conseil.

Constitution et nomination

(2) Le lieutenant-gouverneur en conseil désigne l'un des vice-présidents comme président suppléant. Cette personne possède tous les pouvoirs du président si ce dernier est absent ou empêché d'agir.

Président suppléant

(3) Les membres de la Commission qui ne sont pas des employés de la Couronne reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil, et, sous réserve de l'approbation du Conseil de gestion du gouvernement, les frais normaux engagés lors de l'exercice de leurs fonctions aux termes de la présente loi.

Rémunération et frais

(4) Le membre de la Commission qui démissionne peut toutefois exercer les attributions qu'il aurait continué d'avoir s'il n'avait pas démissionné, en ce qui concerne toute question faisant l'objet d'une instance à laquelle il a participé en tant que membre.

Démission d'un membre

(5) Dans l'exercice de ses pouvoirs aux termes de la présente loi, la Commission se prévaut, si cela est approprié, des services et installations des ministères, organismes, commissions ou agences du gouvernement de l'Ontario.

Services des ministères, organismes, etc.

(6) Les personnes nécessaires à la conduite efficace des activités de la Commission peuvent être engagées comme employés de la Commission aux termes de la *Loi sur la fonction publique*. La Commission peut, sous réserve de l'approbation du Conseil de gestion du gouvernement, recruter par contrat les personnes qu'elle juge nécessaires à l'exercice de ses attributions, notamment des professionnels et des experts.

Personnel et autres services
L.R.O. 1980, chap. 418

Powers and
duties of
Commission

28.—(1) The Commission may exercise such powers and shall perform such duties as are conferred or imposed upon it by this Act or the regulations.

Idem

(2) Without limiting the generality of subsection (1), the Commission,

- (a) shall designate one or more of its employees as review officers for the purposes of this Act;
- (b) may decide in an order made under subsection 16 (1) or clause 24 (2) (a) that any job class is a female job class or a male job class;
- (c) may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it;
- (d) may require that any person seeking a determination of any matter by the Commission shall give written notice, in such form and manner as the Commission specifies, to the persons that the Commission specifies; and
- (e) may conduct research and produce papers related to pay equity and related subjects and conduct public education programs related to pay equity and related subjects.

Panels

(3) The presiding officer may establish panels of the Commission and it may sit in two or more panels simultaneously so long as a quorum of the Commission is present on each panel.

Quorum

(4) The presiding officer or a deputy presiding officer, one member representative of employers and one member representative of employees constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Commission.

Decisions

(5) The decision of the majority of the members of the Commission present and constituting a quorum is the decision of the Commission, but, if there is no majority, the decision of the presiding officer or deputy presiding officer governs.

Exclusive
jurisdiction
of
Commission

29.—(1) The Commission has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Commission thereon is final and conclusive for all purposes.

28 (1) La Commission peut exercer les pouvoirs et doit accomplir les obligations qui lui sont conférés par la présente loi ou par les règlements. Attributions
de la
Commission

(2) La Commission possède notamment les attributions suivantes : Idem

- a) elle désigne un ou plusieurs de ses employés comme agent de révision pour l'application de la présente loi;
- b) elle peut décider, au moyen d'une ordonnance prise aux termes du paragraphe 16 (1) ou de l'alinéa 24 (2) a), qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine;
- c) elle peut établir des règles concernant la conduite et la gestion de ses affaires, ainsi que des règles de pratique et de procédure à suivre relativement aux questions dont elle est saisie;
- d) elle peut exiger que la personne qui lui demande de prendre une décision relative à une question quelconque en avise par écrit, de la manière que précise la Commission, les personnes qu'elle précise;
- e) elle peut effectuer des recherches et préparer des rapports concernant l'équité salariale et des questions connexes. Elle peut instituer à l'intention du public des programmes d'information concernant ces sujets.

(3) Le président peut former des comités de la Commission, qui peut ainsi siéger simultanément en plusieurs comités, pourvu que le quorum de la Commission soit atteint dans chacun d'eux. Comités

(4) Le président ou un vice-président, un membre représentant les employeurs et un membre représentant les employés constituent le quorum et peuvent exercer tous les pouvoirs de la Commission. Quorum

(5) La décision de la majorité des membres de la Commission présents qui constituent le quorum est la décision de la Commission. En cas de partage, le président ou le vice-président a voix prépondérante. Décisions

29 (1) La Commission a compétence exclusive pour exercer les pouvoirs que lui confère la présente loi et trancher les Compétence
exclusive de
la Commis-
sion

Reconsideration of decisions, etc.

(2) The Commission may at any time, if it considers it advisable to do so, reconsider a decision or order made by it and vary or revoke the decision or order.

Testimony in civil proceedings

30. Except with the consent of the Commission, no member of the Commission, nor any of its employees nor any other person whose services have been contracted for by the Commission, shall be required to give testimony in any civil proceeding or in any proceeding before the Commission or any other tribunal respecting information obtained in the discharge of their duties or while acting within the scope of their employment under this Act.

Annual report

31. The Commission shall make an annual report of its activities and affairs to the Minister not later than the 30th day of June in each year and the Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

Parties to proceedings

32.—(1) Where a hearing is held before the Commission or where a review officer investigates for the purposes of effecting a settlement of an objection or complaint, the parties to the proceeding are,

- (a) the employer;
- (b) the objector or complainant; and
- (c) the bargaining agent (if the pay equity plan relates to a bargaining unit) or the employees to whom the plan relates (if the plan does not relate to a bargaining unit).

Notice

(2) Where the Commission or a review officer requires that a notice be given by the employer to employees, the employer shall post the notice in the work place and such notice shall be deemed to have been sufficiently given to all employees in the work place when it is so posted.

Representation

(3) An employee or a group of employees may appoint any person or organization to act as the agent of the employee or group of employees before the Commission or before a review officer.

Idem

(4) Where an employee or group of employees advises the Commission in writing that the employee or group of employees wishes to remain anonymous, the agent of the employee or group of employees shall be the party to the proceeding before the Commission or review officer and not the employee or group of employees.

questions de fait ou de droit soulevées à l'occasion d'une question dont elle est saisie. Ses décisions et les mesures qu'elle prend sont définitives et ont à toutes fins force de chose jugée.

(2) La Commission peut, chaque fois qu'elle le juge à propos, examiner de nouveau, modifier ou annuler ses propres décisions et ordonnances.

Nouvel
examen des
décisions et
ordonnances

30 Sauf si la Commission y consent, ses membres, ses employés et les personnes dont elle a retenu les services par contrat ne peuvent pas être contraints à témoigner lors d'une instance civile ou devant la Commission ou toute autre commission, en ce qui concerne les renseignements obtenus dans l'accomplissement de leurs devoirs ou dans le cadre de leurs fonctions aux termes de la présente loi.

Témoignages
lors d'instan-
ces civiles

31 La Commission présente au ministre, au plus tard le 30 juin de chaque année, un rapport annuel sur ses activités et ses affaires. Le ministre le dépose devant l'Assemblée si elle siège, sinon il le fait à la session suivante.

Rapport
annuel

32 (1) Lorsque la Commission tient une audience ou qu'un agent de révision mène une enquête en vue d'amener les parties à accepter un règlement relativement à une opposition ou à une plainte, les parties à l'instance sont les suivantes :

Parties à
l'instance

- a) l'employeur;
- b) l'opposant ou le plaignant;
- c) l'agent négociateur (si le programme d'équité salariale est relié à une unité de négociation) ou les employés visés par le programme (si celui-ci n'est pas relié à une unité de négociation).

(2) Lorsque la Commission ou l'agent de révision exige que l'employeur donne un avis à ses employés, celui-ci affiche l'avis sur les lieux de travail, et l'avis ainsi affiché est réputé suffisant à l'égard de tous les employés du lieu de travail.

Avis

(3) Un employé ou un groupe d'employés peuvent désigner une personne ou une organisation comme leur mandataire devant la Commission ou l'agent de révision.

Représenta-
tion

(4) Lorsqu'un employé ou un groupe d'employés avisent par écrit la Commission de leur désir de garder l'anonymat, leur mandataire devient à leur place la partie à l'instance devant la Commission ou l'agent de révision.

Idem

Idem

(5) Where subsection (4) applies, the agent, in the agent's name, may take all actions that an employee may take under this Act including the filing of objections under Part II and the filing of complaints under Part IV.

Review officers, duties

33.—(1) Review officers shall monitor the preparation and implementation of pay equity plans, investigate objections and complaints filed with the Commission and shall attempt to effect settlements or take such other action as is set out in this Act or in an order of the Commission.

Powers

(2) A review officer, for the purpose of carrying out his or her duties,

- (a) may enter any place at any reasonable time;
- (b) may request the production for inspection of documents or things that may be relevant to the carrying out of the duties;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them;
- (d) may question a person on matters that are or may be relevant to the carrying out of the duties subject to the person's right to have counsel or some other representative present during the examination; and
- (e) may provide in an order made under subsection 15 (2) or 23 (1) that any job class is a female job class or a male job class.

Non-application of
R.S.O. 1980,
c. 484

(3) The *Statutory Powers Procedure Act* does not apply to a review officer and he or she is not required to hold a hearing before making an order authorized by this Act.

Entry to dwellings

34.—(1) A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section.

(5) Lorsque le paragraphe (4) s'applique, le mandataire peut, en son nom, prendre toutes les mesures qu'un employé peut prendre aux termes de la présente loi. Il peut notamment déposer une opposition en vertu de la partie II et déposer une plainte en vertu de la partie IV.

Idem

33 (1) Il incombe aux agents de révision de contrôler l'élaboration et la mise en oeuvre des programmes d'équité salariale et de mener des enquêtes au sujet des oppositions et des plaintes qui ont été déposées auprès de la Commission. Il leur incombe également de tenter d'amener les parties à accepter un règlement ou de prendre toute autre mesure prévue par la présente loi ou par une ordonnance de la Commission.

Fonctions de l'agent de révision

(2) Dans l'exercice de ses fonctions, l'agent de révision peut :

Pouvoirs

- a) à une heure raisonnable, pénétrer dans un endroit quelconque;
- b) exiger la production, à des fins d'inspection, de documents ou d'objets qui peuvent être reliés à l'exercice de ses fonctions;
- c) après avoir donné un récépissé à cet effet, enlever de quelque endroit où ils se trouvent, les documents ou les objets produits à la suite de la demande formulée en vertu de l'alinéa b), aux fins d'en tirer des copies ou des extraits, après quoi ils sont promptement retournés à la personne qui les a produits;
- d) interroger quiconque sur des questions qui sont ou peuvent être reliées à l'exercice de ses fonctions, sous réserve du droit de cette personne à la présence d'un avocat ou d'un autre représentant lors de l'interrogatoire;
- e) stipuler, dans un ordre donné aux termes des paragraphes 15 (2) ou 23 (1), qu'une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine.

(3) La *Loi sur l'exercice des compétences légales* ne s'applique pas à un agent de révision, et celui-ci n'est pas obligé de tenir une audience avant de donner un ordre autorisé par la présente loi.

Non-application du chap. 484 des L.R.O. de 1980

34 (1) Le pouvoir accordé par la présente loi de pénétrer dans un endroit qui sert de logement, ne peut être exercé sans

Accès à un logement

Warrant for
search

(2) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of a review officer's duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing the review officer named in the warrant to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed.

Warrant for
entry

(3) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that a review officer may carry out his or her duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing such entry by the review officer named in the warrant.

Execution
and
expiry of
warrant

(4) A warrant issued under this section,

- (a) shall specify the hours and days during which it may be executed; and
- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

Obstruction

(5) No person shall hinder, obstruct or interfere with a review officer in the execution of a warrant or otherwise impede a review officer in carrying out his or her duties under this Act.

Idem

(6) Subsection (5) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (2).

Admissibility
of copies

(7) Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

la permission de l'occupant, sauf en vertu d'un mandat délivré aux termes du présent article.

(2) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il se trouve dans un endroit quelconque des documents ou des objets qu'on peut raisonnablement croire susceptibles de fournir des preuves à l'agent de révision dans l'exercice de ses fonctions aux termes de la présente loi, peut délivrer un mandat de perquisition rédigé selon la formule prescrite. Le mandat autorise l'agent de révision qui y est nommé à perquisitionner à cet endroit en vue d'en enlever les pièces précitées pour en tirer des copies ou des extraits, après quoi elles sont promptement retournées à cet endroit.

Mandat de perquisition

(3) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il existe des motifs raisonnables de croire qu'il est nécessaire qu'un agent de révision, dans l'exercice de ses fonctions en vertu de la présente loi, pénètre dans un endroit qui sert de logement ou dont l'accès a été refusé, peut délivrer un mandat rédigé selon la formule prescrite, autorisant l'agent de révision qui y est nommé à pénétrer dans le logement.

Mandat pour pénétrer dans un endroit

(4) Le mandat délivré aux termes du présent article :

Exécution et caducité du mandat

- a) précise les jours et les heures pendant lesquels il peut être exécuté;
- b) porte une date de caducité qui ne peut être postérieure à quinze jours de sa délivrance.

(5) Nul ne doit entraver ni gêner un agent de révision dans l'exécution d'un mandat ni d'une autre façon l'empêcher d'exercer ses fonctions aux termes de la présente loi.

Interdiction d'entraver

(6) Sauf si un mandat a été délivré aux termes du paragraphe (2), le paragraphe (5) n'est pas enfreint par le refus d'une personne de produire des documents ou des objets.

Idem

(7) Les copies ou extraits qu'une personne a tirés des documents et des objets qui ont été enlevés d'un endroit aux termes de la présente loi et que cette personne certifie être conformes aux originaux, sont admissibles en preuve dans la même mesure et ont la même valeur probante que les documents ou les objets dont ils sont tirés.

Admissibilité des copies

PART VI

Regulations and Miscellaneous

Regulations

35. The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and notices and providing for their use;
- (b) prescribing methods for determining the historical incumbency of a job class;
- (c) prescribing criteria that shall be taken into account in deciding whether a job class is a female job class or a male job class;
- (d) prescribing the method of valuing any form of compensation;
- (e) prescribing criteria that shall be taken into account in determining whether work performed in two job classes is of equal or comparable value;
- (f) prescribing criteria that shall be taken into account in deciding whether or not a difference in compensation between a female job class and a male job class is a difference that is permitted by subsection 7 (1) or (2);
- (g) permitting the Commission, on the application of an employer and in accordance with such criteria as may be prescribed in the regulations, to change the mandatory posting date and the dates for adjustments in compensation to dates later than those set out in Part II and to vary the minimum adjustments in compensation required by that Part, subject to such conditions as the Commission may impose in its order granting the application;
- (h) adding to the Appendix to the Schedule any person or class of persons or any agency, authority, board, commission, corporation or organization of any kind and providing that the mandatory posting date for an entity so added shall be such date as is set out in the regulations.

PARTIE VI

Règlements et dispositions diverses

35 Le lieutenant-gouverneur en conseil peut, par règle- Règlements
ment :

- a) prescrire des formules et des avis, et prévoir les modalités de leur emploi;
- b) prescrire les méthodes à utiliser pour déterminer le sexe des personnes qui occupent traditionnellement les postes d'une catégorie d'emplois;
- c) prescrire des critères dont il est tenu compte aux fins de déterminer si une catégorie d'emplois est une catégorie d'emplois à prédominance féminine ou une catégorie d'emplois à prédominance masculine;
- d) prescrire la méthode à utiliser pour déterminer la valeur de toute forme de rétribution;
- e) prescrire des critères dont il est tenu compte aux fins de déterminer si le travail effectué dans deux catégories d'emplois est de valeur égale ou comparable;
- f) prescrire des critères dont il est tenu compte aux fins de déterminer si un écart de rétribution entre une catégorie d'emplois à prédominance féminine et une catégorie d'emplois à prédominance masculine est un écart permis par les paragraphes 7 (1) ou (2);
- g) permettre à la Commission, à la demande d'un employeur et conformément aux critères qui peuvent être prescrits dans les règlements, de reporter la date d'affichage obligatoire et les dates des rajustements de la rétribution à des dates postérieures à celles que prévoit la partie II, ainsi que de modifier les rajustements minimaux de la rétribution exigés par cette partie, aux conditions que la Commission peut imposer dans l'ordonnance par laquelle elle consent à la demande;
- h) ajouter à l'appendice de l'annexe une personne, une catégorie de personnes ou un organisme, un office, un conseil, une commission, une personne morale ou une organisation quelconque, et prévoir que la

Review of
Act

36.—(1) Seven years after the effective date, the Lieutenant Governor in Council shall appoint a person who shall undertake a comprehensive review of this Act and its operation.

Report to
Minister

(2) The person appointed under subsection (1) shall prepare a report on his or her findings and shall submit the report to the Minister.

Idem

(3) The Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

Moneys

37. The moneys required for the purposes of this Act by the Crown in right of Ontario shall, until the 31st day of March, 1987, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Crown bound

38. This Act binds the Crown in right of Ontario.

Commence-
ment

39. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

40. The short title of this Act is the *Pay Equity Act, 1986*.

date d'affichage obligatoire de ces derniers est celle qui figure aux règlements.

36 (1) Sept ans après la date d'entrée en vigueur, le lieutenant-gouverneur en conseil nomme une personne qui procède à l'examen global de la loi et des modalités de son application. Examen de la loi

(2) La personne nommée aux termes du paragraphe (1) rédige un rapport qui énonce ses conclusions et le présente au ministre. Rapport au ministre

(3) Le ministre dépose le rapport devant l'Assemblée si elle siège, sinon il le fait à la session suivante. Idem

37 Les sommes d'argent nécessaires à la Couronne du chef de l'Ontario pour l'application de la présente loi sont prélevées, jusqu'au 31 mars 1987, sur le Fonds du revenu consolidé. Après cette date, ces sommes sont prélevées sur les sommes affectées à cette fin par la Législature. Sommes d'argent

38 La présente loi lie la Couronne du chef de l'Ontario. La Couronne est liée

39 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en vigueur

40 Le titre abrégé de la présente loi est *Loi de 1986 sur l'équité salariale*. Titre abrégé

SCHEDULE

1. The public sector in Ontario consists of,

- (a) the Crown in right of Ontario, every agency thereof, and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council;
- R.S.O. 1980,
c. 303 (b) the corporation of every municipality in Ontario, every local board as defined by the *Municipal Affairs Act*, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario;
- R.S.O. 1980,
c. 129 (c) every board as defined in the *Education Act*, and every college, university or post-secondary school educational institution in Ontario the majority of the capital or annual operating funds of which are received from the Crown;
- R.S.O. 1980,
cc. 410, 389,
79, 391 (d) every hospital listed in the Schedule to Regulation 863 of Revised Regulations of Ontario, 1980 made under the *Public Hospitals Act*, every private hospital operated under the authority of a licence issued under the *Private Hospitals Act*, every hospital established or approved by the Lieutenant Governor in Council as a community psychiatric hospital under the *Community Psychiatric Hospitals Act* and every sanitarium licensed by the Lieutenant Governor in Council under the *Private Sanitaria Act*;
- (e) every corporation with share capital, at least 90 per cent of the issued shares of which are beneficially held by or for an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- (f) every corporation without share capital, the majority of whose members or officers are members of, or are appointed or chosen by or under the authority of, an employer or employers described in clauses (a) to (d), and every wholly-owned subsidiary thereof;
- 1983, c. 10 (g) every board of health under the *Health Promotion and Protection Act, 1983*, and every board of health under an Act of the Legislature that establishes or continues a regional municipality;
- (h) the Office of the Lieutenant Governor of Ontario, the Office of the Assembly, members of the Assembly, the Office of the Ombudsman and the Provincial Auditor; and
- (i) any authority, board, commission, corporation, office, person or organization of persons, or any class of authorities, boards, commissions, corporations, offices, persons or organizations of persons, set out in the Appendix to this Schedule or added to the Appendix by the regulations made under this Act.

ANNEXE

1 Le secteur public en Ontario se compose des éléments suivants :

- a) la Couronne du chef de l'Ontario, les organismes qui en relèvent, ainsi que les offices, conseils, commissions, personnes morales, les bureaux et organisations de personnes dont la majorité des administrateurs, des membres ou des dirigeants sont nommés ou choisis par le lieutenant-gouverneur en conseil ou par un membre du Conseil des ministres ou avec leur approbation;
- b) les municipalités de l'Ontario, les conseils locaux au sens de la *Loi sur les affaires municipales*, ainsi que les offices, conseils, commissions, personnes morales, les bureaux et organisations de personnes dont les membres ou les dirigeants sont nommés ou choisis par le conseil d'une municipalité de l'Ontario ou avec leur approbation; L.R.O. 1980, chap. 303
- c) les conseils au sens de la *Loi sur l'éducation*, ainsi que les collèges, les universités et les établissements d'enseignement postsecondaire de l'Ontario qui reçoivent la majeure partie de leur capital ou de leurs fonds annuels de fonctionnement de la Couronne; L.R.O. 1980, chap. 129
- d) les hôpitaux dont le nom figure à l'annexe du Règlement 863 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur les hôpitaux publics*, les hôpitaux privés exploités aux termes d'un permis délivré en vertu de la *Loi sur les hôpitaux privés*, les hôpitaux établis ou agréés par le lieutenant-gouverneur en conseil à titre d'hôpitaux psychiatriques communautaires en vertu de la *Loi sur les hôpitaux psychiatriques communautaires*, ainsi que les maisons de santé titulaires d'un permis délivré par le lieutenant-gouverneur en conseil en vertu de la *Loi sur les maisons de santé*; L.R.O. 1980, chap. 410, 389, 79, 391
- e) les personnes morales disposant d'un capital-actions dont au moins 90 pour cent des actions émises sont détenues à titre bénéficiaire par un ou plusieurs employeurs visés aux alinéas a) à d) ou pour le compte de ceux-ci, ainsi que les filiales en propriété exclusive de ces personnes morales;
- f) les personnes morales sans capital-actions dont la majorité des membres ou des dirigeants sont nommés ou choisis par un ou plusieurs des employeurs visés aux alinéas a) à d) ou avec leur approbation, ou en sont membres, ainsi que les filiales en propriété exclusive de ces personnes morales;
- g) les conseils de santé aux termes de la *Loi de 1983 sur la protection et la promotion de la santé*, ainsi que les conseils de santé aux termes d'une loi de la Législature qui crée ou maintient une municipalité régionale; 1983, chap. 10
- h) le Bureau du lieutenant-gouverneur de l'Ontario et celui de l'Assemblée, les membres de l'Assemblée, le Bureau de l'ombudsman et celui du vérificateur provincial;
- i) les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes et les catégories de ceux-ci qui figurent dans l'appendice à la présente annexe ou qui sont ajoutés à l'appendice au moyen de règlements pris en application de la présente loi.

APPENDIX

MINISTRY OF AGRICULTURE AND FOOD

1. Ontario Dairy Herd Improvement Corporation.

MINISTRY OF CITIZENSHIP AND CULTURE

1. The Art Gallery of Ontario.
2. CJRT-FM Inc.
3. Royal Botanical Gardens.

MINISTRY OF COLLEGES AND UNIVERSITIES

1. Collège dominicain de philosophie et de théologie.
2. Knox College.
3. McMaster Divinity College.
4. Queen's Theological College.
5. Regis College.
6. St. Augustine's Seminary.
7. St. Michael's College.
8. St. Paul University.
9. St. Paul's United College.
10. St. Peter's Seminary.
11. Trinity College.
12. Victoria College.
13. Waterloo Lutheran Seminary.
14. Wycliffe College.

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,
 - (a) children's residences operating under the *Child and Family Services Act, 1984* (c. 55);
 - (b) homes for the aged and rest homes operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
 - (c) counselling services, special assistance and staff training services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);

APPENDICE

MINISTÈRE DE L'AGRICULTURE ET DE L'ALIMENTATION

1. Ontario Dairy Herd Improvement Corporation.

MINISTÈRE DES AFFAIRES CIVIQUES ET CULTURELLES

1. Musée des beaux-arts de l'Ontario.
2. CJRT-FM Inc.
3. Royal Botanical Gardens.

MINISTÈRE DES COLLÈGES ET UNIVERSITÉS

1. Collège dominicain de philosophie et de théologie.
2. Knox College.
3. McMaster Divinity College.
4. Queen's Theological College.
5. Regis College.
6. St. Augustine's Seminary.
7. St. Michael's College.
8. Université Saint-Paul.
9. St. Paul's United College.
10. St. Peter's Seminary.
11. Trinity College.
12. Victoria College.
13. Waterloo Lutheran Seminary.
14. Wycliffe College.

MINISTÈRE DES SERVICES SOCIAUX ET COMMUNAUTAIRES

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) les foyers pour enfants qui fonctionnent en vertu de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55);
- b) les foyers pour personnes âgées et les maisons de repos qui fonctionnent en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203);
- c) les services de consultation, d'aide spéciale et de formation du personnel qui sont achetés par des municipalités en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188);

- (d) counselling services purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (e) hostels providing services purchased by municipalities under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188);
- (f) work activity projects under the *General Welfare Assistance Act* (R.S.O. 1980, c. 188) purchased by municipalities or the Ministry of Community and Social Services;
- (g) support services to the physically handicapped purchased by the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (h) vocational rehabilitation services funded by the Ministry of Community and Social Services under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
- (i) satellite homes operating or funded under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203);
- (j) nursing services purchased or funded under the *Homemakers and Nurses Services Act* (R.S.O. 1980, c. 200);
- (k) workshops under the *Vocational Rehabilitation Services Act* (R.S.O. 1980, c. 525);
- (l) services funded under the *Development Services Act* (R.S.O. 1980, c. 118);
- (m) homes for retarded persons approved under the *Homes for Retarded Persons Act* (R.S.O. 1980, c. 201);
- (n) day nurseries operated by corporations or municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111) receiving direct subsidies from the Ministry of Community and Social Services;
- (o) day nurseries and private home day-care agencies providing services and funded under agreements with municipalities under the *Day Nurseries Act* (R.S.O. 1980, c. 111);
- (p) credit counselling services receiving financial assistance under agreements with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273);
- (q) custody and detention facilities, probation and after-care services, residential services and supervisory services to children on probation under agreement with the Ministry of Community and Social Services under the *Ministry of Community and Social Services Act* (R.S.O. 1980, c. 273).

- d) les services de consultation qui sont achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- e) les centres d'accueil qui fournissent des services qui sont achetés par des municipalités en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188);
- f) des programmes d'adaptation au travail en vertu de la *Loi sur l'aide sociale générale* (L.R.O. 1980, chap. 188) qui sont achetés par des municipalités ou par le ministère des Services sociaux et communautaires;
- g) des services d'appoint pour les personnes atteintes d'un handicap physique qui sont achetés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- h) des services de réadaptation professionnelle financés par le ministère des Services sociaux et communautaires en vertu de la *Loi sur les services de réadaptation professionnelle* (L.R.O. 1980, chap. 525);
- i) des foyers annexes qui fonctionnent ou qui sont financés en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203);
- j) des services de soins infirmiers qui sont achetés ou financés en vertu de la *Loi sur les services d'aides familiales et d'infirmières visiteuses* (L.R.O. 1980, chap. 200);
- k) des ateliers établis en vertu de la *Loi sur les services de réadaptation professionnelle* (L.R.O. 1980, chap. 525);
- l) des services financés en vertu de la *Loi sur les services aux déficients mentaux* (L.R.O. 1980, chap. 118);
- m) des foyers pour déficients mentaux agréés en vertu de la *Loi sur les foyers pour déficients mentaux* (L.R.O. 1980, chap. 201);
- n) des garderies dont le fonctionnement est assuré par des personnes morales ou des municipalités en vertu de la *Loi sur les garderies* (L.R.O. 1980, chap. 111) qui reçoivent des subventions directes du ministère des Services sociaux et communautaires;
- o) des garderies et des sociétés de garde d'enfants en maisons privées qui fournissent des services et qui sont financées aux termes d'ententes conclues avec des municipalités en vertu de la *Loi sur les garderies* (L.R.O. 1980, chap. 111);
- p) des services de consultation en matière de crédit qui reçoivent une aide financière aux termes d'ententes conclues avec le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273);
- q) des installations de garde et de détention, des services de probation et des services aux libérés, des services en établissement et des services de supervision aux enfants en probation aux termes d'une entente conclue avec le ministère des Services sociaux et communautaires en vertu de la *Loi sur le ministère des Services sociaux et communautaires* (L.R.O. 1980, chap. 273).

2. Societies within the meaning of the *Child and Family Services Act, 1984* (c. 55) and agencies from whom such societies purchase child care services.

3. Corporations operating charitable institutions approved under the *Charitable Institutions Act* (R.S.O. 1980, c. 64).

4. Boards of management operating under the *Homes for the Aged and Rest Homes Act* (R.S.O. 1980, c. 203).

5. District Welfare Administration Boards operating under the *District Welfare Administration Boards Act* (R.S.O. 1980, c. 122).

MINISTRY OF CORRECTIONAL SERVICES

1. Any agency, board, commission, person or partnership that provides, under funding by the Ministry of Correctional Services,

- (a) assistance to witnesses, victims of crime or disabled persons;
- (b) educational, employment search, medical or promotional services;
- (c) supervision of inmates, parolees, probationers or persons accused of crime;
- (d) community residential services.

MINISTRY OF EDUCATION

1. Centre franco-ontarien de ressources pédagogiques.

MINISTRY OF HEALTH

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,

- (a) an ambulance service, under the authority of a licence issued under the *Ambulance Act* (R.S.O. 1980, c. 20);
- (b) a nursing home, under the authority of a licence issued under the *Nursing Homes Act* (R.S.O. 1980, c. 320);
- (c) a laboratory or a specimen collection centre, under the authority of a licence issued under the *Laboratory and Specimen Collection Centre Licensing Act* (R.S.O. 1980, c. 409);
- (d) a psychiatric facility within the meaning of the *Mental Health Act* (R.S.O. 1980, c. 262), the operation of which is funded in whole or in part by the Ministry of Health;
- (e) a home for special care established, approved or licensed under the *Homes for Special Care Act* (R.S.O. 1980, c. 202);
- (f) a home care facility within the meaning of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197) or a facility which, by arrangement with any such home care facility,

2 Les sociétés au sens de la *Loi de 1984 sur les services à l'enfance et à la famille* (chap. 55) ainsi que les agences auprès desquelles ces sociétés achètent des services de soins aux enfants.

3 Les personnes morales qui assurent le fonctionnement d'établissements de bienfaisance agréés en vertu de la *Loi sur les établissements de bienfaisance* (L.R.O. 1980, chap. 64).

4 Les conseils de gestion qui fonctionnent en vertu de la *Loi sur les foyers pour personnes âgées et les maisons de repos* (L.R.O. 1980, chap. 203).

5 Les commissions de district pour l'administration de l'aide sociale fonctionnant en vertu de la *Loi sur les commissions de district pour l'administration de l'aide sociale* (L.R.O. 1980, chap. 122).

MINISTÈRE DES SERVICES CORRECTIONNELS

1 Les organismes, conseils, commissions, personnes ou sociétés en nom collectif qui fournissent, grâce au financement du ministère des Services correctionnels, les services suivants :

- a) des services d'aide aux témoins, aux victimes d'actes criminels ou aux personnes handicapées;
- b) des services d'enseignement, de recherche d'emploi, des services médicaux ou de promotion;
- c) la surveillance de détenus, de personnes en liberté conditionnelle, de probationnaires ou de personnes accusées d'un acte criminel;
- d) des services de placement en établissement communautaire.

MINISTÈRE DE L'ÉDUCATION

1 Centre franco-ontarien de ressources pédagogiques.

MINISTÈRE DE LA SANTÉ

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisation de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) un service d'ambulance, aux termes d'un permis délivré en vertu de la *Loi sur les services d'ambulance* (L.R.O. 1980, chap. 20);
- b) une maison de soins infirmiers, aux termes d'un permis délivré en vertu de la *Loi sur les maisons de soins infirmiers* (L.R.O. 1980, chap. 320);
- c) un laboratoire médical ou un centre de prélèvements, aux termes d'un permis délivré en vertu de la *Loi autorisant des laboratoires médicaux et des centres de prélèvements* (L.R.O. 1980, chap. 409);
- d) un établissement psychiatrique au sens de la *Loi sur la santé mentale* (L.R.O. 1980, chap. 262), dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé;
- e) un foyer de soins spéciaux ouvert, agréé ou autorisé en vertu de la *Loi sur les foyers de soins spéciaux* (L.R.O. 1980, chap. 202);
- f) un établissement de soins à domicile au sens du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la

- (i) supplies nursing, physiotherapy, occupational therapy or speech therapy services that are insured home care services under section 44 of Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197), and
 - (ii) is entitled to payment from the home care facility for or in respect of supplying such services;
 - (g) a rehabilitation centre or a crippled children's centre listed in Schedule 10 to Regulation 452 of Revised Regulations of Ontario, 1980 made under the *Health Insurance Act* (R.S.O. 1980, c. 197);
 - (h) a detoxification centre the operation of which is funded in whole or in part by the Ministry of Health;
 - (i) an adult community mental health service the operation of which is, pursuant to an agreement in writing, funded in whole or in part by the Ministry of Health;
 - (j) a placement service the operation of which is, pursuant to a "Placement Co-ordination Service Agreement" or other agreement in writing, funded in whole or in part by the Ministry of Health.
2. A district health council appointed under the *Ministry of Health Act* (R.S.O. 1980, c. 280).
3. A laundry that is operated exclusively for one or more than one hospital.
4. Hospital Food Services—Ontario Inc.
5. Toronto District Heating Corporation.
6. Addiction Research Foundation.
7. The operations in Ontario of the Canadian Red Cross Society, other than the provision by the society of home support services for the elderly and homemaking services.
8. The Hospital Council of Metropolitan Toronto.
9. The Hospital Medical Records Institute.
10. The Ontario Cancer Institute.
11. The Ontario Cancer Treatment and Research Foundation.
12. The Ontario Mental Health Foundation.
13. The Toronto Institute of Medical Technology.

Loi sur l'assurance-maladie (L.R.O. 1980, chap. 197) ou un établissement qui, aux termes d'une entente avec l'établissement de soins à domicile en question, répond aux conditions suivantes :

- (i) fournit des services de soins infirmiers, des services de physiothérapie, d'ergothérapie ou d'orthophonie qui sont des services de soins à domicile assurés aux termes de l'article 44 du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197),
 - (ii) a droit au paiement, en contrepartie ou à l'égard de la fourniture des services en question, de frais qui lui sont versés par l'établissement des services à domicile en question;
- g) un centre de rééducation ou un centre pour enfants infirmes qui figure sur la liste de l'Annexe 10 du Règlement 452 des Règlements refondus de l'Ontario de 1980 pris en application de la *Loi sur l'assurance-maladie* (L.R.O. 1980, chap. 197);
 - h) un centre de désintoxication dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé;
 - i) un service communautaire de santé mentale aux adultes dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé, aux termes d'une entente conclue par écrit;
 - j) un service de placement dont le fonctionnement est financé entièrement ou en partie par le ministère de la Santé, conformément à une «Entente de service de coordination des placements» ou d'une autre entente conclue par écrit.

2 Un conseil régional de santé établi en vertu de la *Loi sur le ministère de la Santé* (L.R.O. 1980, chap. 280).

3 Une blanchisserie qui est exploitée exclusivement aux fins d'un hôpital ou plus.

4 Services alimentaires hospitaliers—Ontario Inc.

5 Toronto District Heating Corporation.

6 Fondation de la recherche sur la toxicomanie.

7 Les activités en Ontario de la Société canadienne de la Croix-Rouge, autres que la fourniture de services d'appoint à domicile pour les personnes âgées et de services d'aides familiales.

8 The Hospital Council of Metropolitan Toronto.

9 The Hospital Medical Records Institute.

10 The Ontario Cancer Institute.

11 The Ontario Cancer Treatment and Research Foundation.

12 The Ontario Mental Health Foundation.

13 The Toronto Institute of Medical Technology.

MINISTRY OF INDUSTRY, TRADE AND TECHNOLOGY

1. Metropolitan Toronto Convention Centre.

MINISTRY OF MUNICIPAL AFFAIRS

1. Any authority, board, commission, corporation, office, person or organization of persons which operates or provides,
 - (a) the collection, removal and disposal of garbage and other refuse for a municipality;
 - (b) the operation and maintenance of buses for the conveyance of passengers under an agreement with a municipality.

MINISTRY OF NATURAL RESOURCES

1. Conservation Authorities established under the *Conservation Authorities Act* (R.S.O. 1980, c. 85).

MINISTRY OF TOURISM AND RECREATION

1. St. Clair Parkway Commission.

MINISTRY OF TREASURY AND ECONOMICS

1. Ontario Municipal Employees Retirement Board.

**MINISTÈRE DE L'INDUSTRIE, DU COMMERCE ET DE LA
TECHNOLOGIE**

1 Metropolitan Toronto Convention Centre.

MINISTÈRE DES AFFAIRES MUNICIPALES

1 Les offices, conseils, commissions, personnes morales, bureaux, personnes ou organisations de personnes qui assurent le fonctionnement des organismes ci-dessous ou qui fournissent les services suivants :

- a) la collecte, l'enlèvement et l'élimination des ordures ménagères et d'autres déchets pour le compte d'une municipalité;
- b) le maintien et l'exploitation d'autobus pour le transport de passagers aux termes d'une entente conclue avec une municipalité.

MINISTÈRE DES RICHESSES NATURELLES

1 Les offices de protection de la nature créés en vertu de la *Loi sur les offices de protection de la nature* (L.R.O. 1980, chap. 85).

MINISTÈRE DU TOURISME ET DES LOISIRS

1 St. Clair Parkway Commission.

MINISTÈRE DU TRÉSOR ET DE L'ÉCONOMIE

1 La Commission du régime de retraite des employés municipaux de l'Ontario.

Bill 155

An Act respecting Simcoe Day

Mr. McLean

1st Reading November 24th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to change the name of the public holiday celebrated in many municipalities on the first Monday in August from "Civic Holiday" to Simcoe Day in honour of John Graves Simcoe who was appointed first Lieutenant Governor of Upper Canada on September 12th, 1791, and who convened the first legislative assembly and established the capital of the Province at York, now Toronto.

Bill 155**1986****An Act respecting Simcoe Day**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Where the first Monday in August in any year is proclaimed a public holiday in a municipality, the name of the holiday shall be Simcoe Day. Simcoe Day

2. Any Act, regulation, proclamation, contract or document that refers to a public holiday by the name of "Civic Holiday" shall be deemed to refer to Simcoe Day. Other references

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Simcoe Day Act, 1986*. Short title

Bill 156

An Act to amend the Securities Act

The Hon. M. Kwinter
Minister of Financial Institutions

<i>1st Reading</i>	November 24th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

The principal purposes of the Bill are as follows:

1. Under section 2, the Lieutenant Governor in Council will be authorized to appoint up to two additional persons as members of the Commission and to designate an additional Vice-Chairman.

2. Under the *Business Corporations Act, 1982*, provision is made for the clearing of securities through the facilities of a clearing agency recognized by the Commission. The proposed clause 18 (1) (a), section 21a and paragraph 18a of section 139 of the Act, as set out in sections 3, 4 and 12 of the Bill, provide for a regulatory framework with respect to the recognition of such clearing agencies. The new definitions set out in section 1 of the Bill are complementary to the provisions related to clearing agencies.

3. Under section 7, Part XIX of the Act is re-enacted. Part XIX relates to take-over bids and issuer bids. Among the significant changes are the following:

1. The requirement for follow-up offers as set out in the present subsection 91 (1) of the Act is replaced by new restrictions on the availability of the private agreement exemption. (Proposed clause 92 (1) (c))
2. An early warning system is established whereby, when an offeror's holdings in any class of voting or non-voting participating securities of an issuer reaches 10 per cent, the offeror will be required to make public disclosure of the fact. (Proposed section 100)
3. Provision is made for the integration with the bid of acquisitions made through private transactions during the ninety day period preceding a take-over bid so that offerees under the bid will receive consideration equal to the consideration paid in the private transactions. (Proposed subsection 93 (4))
4. An offeror and those acting jointly or in concert with an offeror will be treated as one offeror.
5. Restrictions on conditions in take-over bids are removed.
6. The take-over bid and issuer bid requirements in the proposed sections 94 to 99 will be made applicable to voluntary acquisitions of non-voting participating securities.
7. Take-over bids and issuer bids that are made in jurisdictions with acceptable rules related to bids and that have slight connection with Ontario will be exempted from the take-over bid and issuer bid requirements of the Act. (Proposed clauses 92 (1) (e) and 92 (3) (h))
8. Restrictions will apply to acquisitions of securities that were subject to a take-over bid or an issuer bid for a period of twenty days following the expiry of the bid. (Proposed subsection 93 (6))
9. Amendments are made to the rules governing take-over bids and issuer bids.
10. Under the proposed section 100e, the existing Part XIX will continue to apply in respect of take-over bids and issuer bids commenced before the new Part XIX comes into force.
11. New remedial powers are conferred on the Commission and on the High Court. (Proposed sections 100c and 100d)

The amendments to the Act set out in sections 5, 6, 8, 9, 10, 11 and 12 of the Bill are complementary to the enactment of the new Part XIX of the Act.

Bill 156

1986

An Act to amend the Securities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraphs:

- 2a. "clearing agency" means a person or company that acts as an intermediary in paying funds or delivering securities, or both, in connection with trades in securities and that provides centralized facilities for the clearing of trades in securities;

.

- 34a. "recognized clearing agency" means a person or company that is designated as a recognized clearing agency by the Commission.

2. Subsection 2 (2) of the said Act is repealed and the following substituted therefor:

- (2) The Commission shall be composed of a Chairman and not more than ten or less than eight other members, appointed by the Lieutenant Governor in Council, two of whom may be designated as Vice-Chairmen. Appointments

3. Clause 18 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) the financial affairs of a recognized clearing agency, registrant or reporting issuer; and

.

4. The said Act is amended by adding thereto the following Part:

PART VIII-A

CLEARING AGENCIES

Recognition
of clearing
agencies

21a.—(1) Upon the application of a person or company carrying on or proposing to carry on the business of a clearing agency, the Commission may designate the person or company as a recognized clearing agency where the Commission is satisfied that to do so would be in the public interest and that the person or company can comply with the regulations and all terms and conditions imposed by the Commission with respect to the designation.

Commission's
powers

(2) The Commission, in designating a person or company as a recognized clearing agency, shall make the designation in writing and the designation may be made subject to such terms and conditions as the Commission may impose.

Idem

(3) The Commission, after giving a recognized clearing agency an opportunity to be heard, may suspend or cancel its designation as a recognized clearing agency or may impose terms and conditions upon the designation where in its opinion such action is in the public interest.

Idem

(4) The Commission, where it appears to it to be in the public interest, may make any decision with respect to any constating document, general agreement with its participants or members, by-law, rule, regulation, procedure or practice of a recognized clearing agency, including, without limiting the generality of the foregoing, suspending the operation of or requiring an amendment to any such constating document, general agreement, by-law, rule, regulation, procedure or practice.

Review of
decisions of
recognized
clearing
agency

(5) Any person or company directly affected by any direction, order or decision made under any by-law, rule, regulation, procedure or practice of a recognized clearing agency may apply to the Commission for a hearing and review thereof and section 8 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director.

5. Paragraph 17 of subsection 34 (1) of the said Act is repealed and the following substituted therefor:

17. A trade in a security to a person or company pursuant to a take-over bid or issuer bid made by that person or company.

6. Clause 71 (1) (k) of the said Act is repealed and the following substituted therefor:

- (k) the trade is made in a security to a person or company pursuant to a take-over bid or issuer bid made by that person or company.

7. Part XIX of the said Act is repealed and the following substituted therefor:

PART XIX

TAKE-OVER BIDS AND ISSUER BIDS

88.—(1) In this Part,

Definitions

“business day” means a day other than a Saturday or a holiday;

“class of securities” includes a series of a class of securities;

“equity security” means any security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon the liquidation or winding up of the issuer, in its assets;

“formal bid” means,

- (a) a take-over bid or an issuer bid to which section 94 applies, or
- (b) a take-over bid that is exempted from sections 94 to 99 or an issuer bid that is exempted from sections 94, 95, 96, 97 and 99,
 - (i) by reason of an exemption under clause 92 (1) (a) or 92 (3) (e), if the offeror is required to deliver to every security holder whose last address as shown on the books of the offeree issuer is in Ontario a disclosure document of the type contemplated by subsection 127 (10), or
 - (ii) by reason of an exemption under clause 92 (1) (e) or 92 (3) (h), if the offeror is required to deliver disclosure material relating to the bid to holders of the class of securities subject to the bid;

“interested person” means, for the purposes of sections 100c and 100d,

- (a) an offeree issuer,
- (b) a security holder, director or officer of an offeree issuer,
- (c) an offeror,
- (d) the Director, and
- (e) any person or company not referred to in clauses (a) to (d) who in the opinion of the Commission or the Court, as the case may be, is a proper person to make an application under section 100c or 100d, as the case may be;

“issuer bid” means an offer to acquire or redeem securities of an issuer made by the issuer to any person or company who is in Ontario or to any security holder of the issuer whose last address as shown on the books of the issuer is in Ontario and includes a purchase, redemption or other acquisition of securities of the issuer by the issuer from any such person or company, but does not include an offer to acquire or redeem debt securities that are not convertible into securities other than debt securities;

“offer to acquire” includes,

- (a) an offer to purchase, or a solicitation of an offer to sell, securities,
- (b) an acceptance of an offer to sell securities, whether or not such offer to sell has been solicited,

or any combination thereof, and the person or company accepting an offer to sell shall be deemed to be making an offer to acquire to the person or company that made the offer to sell;

“offeree issuer” means an issuer whose securities are the subject of a take-over bid, an issuer bid or an offer to acquire;

“offeror” means a person or company who makes a take-over bid, an issuer bid or an offer to acquire and, for the purposes of section 100, includes a person or company who acquires a security, whether or not by way of a take-over bid, issuer bid or offer to acquire;

“offeror’s securities” means securities of an offeree issuer beneficially owned, or over which control or direction is exercised, on the date of an offer to acquire, by an offeror or any person or company acting jointly or in concert with the offeror;

“published market” means, as to any class of securities, any market on which such securities are traded if the prices at which they have been traded on that market are regularly published in a *bona fide* newspaper or business or financial publication of general and regular paid circulation;

“take-over bid” means an offer to acquire outstanding voting or equity securities of a class made to any person or company who is in Ontario or to any security holder of the offeree issuer whose last address as shown on the books of the offeree issuer is in Ontario, where the securities subject to the offer to acquire, together with the offeror’s securities, constitute in the aggregate 20 per cent or more of the outstanding securities of that class of securities at the date of the offer to acquire.

(2) For the purposes of this Part,

Computation
of time,
expiry
of bid

- (a) a period of days shall be computed as commencing on the day next following the event which began the period and terminating at midnight on the last day of the period, except that if the last day of the period does not fall on a business day, the period terminates at midnight on the next business day; and
- (b) a take-over bid or an issuer bid expires at the later of,
 - (i) the end of the period, including any extension, during which securities may be deposited pursuant to the bid, and
 - (ii) the time at which the offeror becomes obligated by the terms of the bid to take-up or reject securities deposited thereunder.

(3) For the purposes of this Part,

Convertible
securities

- (a) a security shall be deemed to be convertible into a security of another class if, whether or not on conditions, it is or may be convertible into or exchangeable for, or if it carries the right or obligation to

acquire, a security of the other class, whether of the same or another issuer; and

- (b) a security that is convertible into a security of another class shall be deemed to be convertible into a security or securities of each class into which the second-mentioned security may be converted, either directly or through securities of one or more other classes of securities that are themselves convertible.

Deemed
beneficial
ownership

89.—(1) For the purposes of this Part, in determining the beneficial ownership of securities of an offeror or of any person or company acting jointly or in concert with the offeror, at any given date, the offeror, person or company shall be deemed to have acquired and be the beneficial owner of a security, including an unissued security, if the offeror, person or company is the beneficial owner of any security convertible within sixty days following such date into such a security or has the right or obligation, whether or not on conditions, to acquire within such sixty days beneficial ownership of the security whether through the exercise of an option, warrant, right or subscription privilege or otherwise.

Calculation
of
holdings,
joint offers

(2) Where two or more offerors acting jointly or in concert make one or more offers to acquire securities of a class, the securities subject to any such offer or offers to acquire shall be deemed to be securities subject to the offer to acquire of each such offeror for the purpose of determining whether any such offeror is making a take-over bid.

Unissued
securities
deemed
outstanding

(3) Where an offeror or any person or company acting jointly or in concert with the offeror is deemed by reason of subsection (1) to be the beneficial owner of unissued securities, the securities shall be deemed to be outstanding for the purpose of calculating the number of outstanding securities of that class in respect of that offeror's offer to acquire.

Acting jointly
or in concert

90.—(1) For the purposes of this Part, it is a question of fact as to whether a person or company is acting jointly or in concert with an offeror and, without limiting the generality of the foregoing, the following shall be presumed to be acting jointly or in concert with an offeror:

1. Every person or company who, as a result of any agreement, commitment or understanding, whether formal or informal, with the offeror or with any other person or company acting jointly or in concert with the offeror, acquires or offers to acquire securities of the issuer of the same class as those subject to the offer to acquire.

2. Every person or company who, as a result of any agreement, commitment or understanding, whether formal or informal, with the offeror or with any other person or company acting jointly or in concert with the offeror, intends to exercise jointly or in concert with the offeror or with any other person or company acting jointly or in concert with the offeror any voting rights attaching to any securities of the offeree issuer.
3. Every associate or affiliate of the offeror.

(2) Notwithstanding subsection (1), a registered dealer acting solely in an agency capacity for the offeror in connection with a take-over bid or an issuer bid and not executing principal transactions for its own account in the class of securities subject to the offer to acquire or performing services beyond customary dealer's functions shall not be presumed solely by reason of such agency relationship to be acting jointly or in concert with the offeror in connection with the bid.

91. For the purposes of this Part, a reference to an offer to acquire or to the acquisition or ownership of securities or to control or direction over securities shall be construed to include a direct or indirect offer to acquire or the direct or indirect acquisition or ownership of securities, or the direct or indirect control or direction over securities, as the case may be.

92.—(1) Subject to the regulations, a take-over bid is exempt from sections 94 to 99 if,

- (a) the bid is made through the facilities of a stock exchange recognized by the Commission for the purposes of this clause;
- (b) the bid is for not more than 5 per cent of the outstanding securities of a class of securities of the issuer and,
 - (i) the aggregate number of securities acquired by the offeror and any person or company acting jointly or in concert with the offeror within any period of twelve months in reliance upon the exemption provided by this clause does not, when aggregated with acquisitions otherwise made by the offeror and any person or company acting jointly or in concert with the offeror within the same twelve month period, constitute in excess of 5 per cent of

the outstanding securities of that class of the issuer at the commencement of the twelve month period, and

- (ii) if there is a published market for the securities acquired, the value of the consideration paid for any of the securities acquired is not in excess of the market price at the date of acquisition determined in accordance with the regulations plus reasonable brokerage fees or commissions actually paid;
- (c) all of the following conditions apply,
 - (i) purchases are made from not more than five persons or companies in the aggregate, including persons or companies outside of Ontario,
 - (ii) the bid is not made generally to security holders of the class of securities that is the subject of the bid, and
 - (iii) the value of the consideration paid for any of the securities, including brokerage fees or commissions, does not exceed 115 per cent of the market price of securities of that class at the date of the bid determined in accordance with the regulations;
- (d) the offeree issuer is not a reporting issuer, there is not a published market in respect of the securities that are the subject of the bid, and the number of holders of securities of that class is not more than fifty, exclusive of holders who are in the employment of the offeree issuer or an affiliate of the offeree issuer, and exclusive of holders who were formerly in the employment of the offeree issuer or an affiliate of the offeree issuer and who while in that employment were, and have continued after that employment to be, security holders of the offeree issuer;
- (e) the number of holders, whose last address as shown on the books of the offeree issuer is in Ontario, of securities of the class subject to the bid is fewer than fifty and the securities held by such holders constitute, in the aggregate, less than 2 per cent of the outstanding securities of that class, the bid is made in compliance with the laws of a jurisdiction that is recognized for the purposes of this clause by

the Commission, and all material relating to the bid that is sent by the offeror to holders of securities of the class that is subject to the bid is concurrently sent to all holders of such securities whose last address as shown on the books of the offeree issuer is in Ontario and filed; or

- (f) it is exempted by the regulations.

(2) For the purposes of clause (1) (c), where an offeror makes an offer to acquire securities from a person or company and the offeror knows or ought to know after reasonable enquiry that,

Determi-
nation
of number of
security
holders

- (a) one or more other persons or companies on whose behalf that person or company is acting as nominee, agent, trustee, executor, administrator or other legal representative has a direct beneficial interest in those securities, then each of such others shall be included in the determination of the number of persons and companies to whom the offer to acquire has been made, but, where an *inter vivos* trust has been established by a single settlor or where an estate has not vested in all persons beneficially entitled thereto, the trust or estate shall be considered a single security holder in such determination; or
- (b) the person or company acquired the securities in order that the offeror might make use of the exemption provided by clause (1) (c), then each person or company from whom those securities were acquired shall be included in the determination of the number of persons and companies to whom the offer to acquire has been made.

(3) Subject to the regulations, an issuer bid is exempt from sections 94, 95, 96, 97 and 99 if,

Exempted
issuer bids

- (a) the securities are purchased, redeemed or otherwise acquired in accordance with terms and conditions attaching thereto that permit the purchase, redemption or acquisition of the securities by the issuer without the prior agreement of the owners of the securities, or where the securities are acquired to meet sinking fund or purchase fund requirements;
- (b) the purchase, redemption or other acquisition is required by the instrument creating or governing the class of securities or by the statute under which

the issuer was incorporated, organized or continued;

- (c) the securities carry with them or are accompanied by a right of the owner of the securities to require the issuer to redeem or repurchase the securities and the securities are acquired pursuant to the exercise of such right;
- (d) the securities are acquired from a current or former employee of the issuer or of an affiliate of the issuer, and if there is a published market in respect of the securities,
 - (i) the value of the consideration paid for any of the securities acquired does not exceed the market price of the securities at the date of the acquisition determined in accordance with the regulations, and
 - (ii) the aggregate number or, in the case of convertible debt securities, the aggregate principal amount of securities acquired by the issuer within a period of twelve months in reliance on the exemption provided by this clause does not exceed 5 per cent of the securities of that class issued and outstanding at the commencement of the period;
- (e) the bid is made through the facilities of a stock exchange recognized by the Commission for the purpose of this clause;
- (f) following the publication of a notice of intention in the form and manner prescribed by the regulations, the issuer purchases securities in the normal course in the open market, including through the facilities of a stock exchange, if the aggregate number, or, in the case of convertible debt securities, the aggregate principal amount, of securities acquired by the issuer within a period of twelve months in reliance on the exemption provided by this clause does not exceed 5 per cent of the securities of that class issued and outstanding at the commencement of the period;
- (g) the issuer is not a reporting issuer, there is not a published market in respect of the securities that are the subject of the bid and the number of holders of securities of the issuer is not more than fifty,

exclusive of holders who are in the employment of the issuer or an affiliate of the issuer, and exclusive of holders who were formerly in the employment of the issuer or an affiliate of the issuer and who while in that employment were, and have continued after the employment to be, security holders of the issuer;

- (h) the number of holders, whose last address as shown on the books of the issuer is in Ontario, of securities of the class subject to the bid is fewer than fifty and the securities held by such holders constitute, in the aggregate, less than 2 per cent of the outstanding securities of that class, the bid is made in compliance with the laws of a jurisdiction that is recognized for the purposes of this clause by the Commission, and all material relating to the bid that is sent by the offeror to holders of securities of the class that is subject to the bid is concurrently sent to all holders of such securities whose last address as shown on the books of the issuer is in Ontario and filed; or
- (i) it is exempted by the regulations.

(4) A bid that is made in reliance upon any exemption in this section through the facilities of a stock exchange shall be made in accordance with the by-laws, regulations and policies of the exchange.

Stock
exchange
requirements

93.—(1) In this section, “offeror” means,

Definition

- (a) an offeror making a formal bid other than a bid referred to in clause 92 (1) (e) or 92 (3) (h);
- (b) a person or company acting jointly or in concert with an offeror referred to in clause (a);
- (c) a security holder of an offeror referred to in clause (a) who, as regards the offeror, is a person or company or a member of a combination of persons or companies referred to in subparagraph iii of paragraph 11 of subsection 1 (1) or an associate or affiliate of such security holder.

(2) An offeror shall not offer to acquire or make, or enter into, any agreement, commitment or understanding to acquire beneficial ownership of any securities of the class that are subject to a take-over bid otherwise than pursuant to the bid on

Restrictions
on
acquisitions
during take-
over
bid

and from the day of the announcement of the offeror's intention to make the bid until its expiry.

Permitted
purchases
during
take-over bid

(3) Notwithstanding subsection (2), an offeror making a take-over bid may purchase, through the facilities of a stock exchange recognized by the Commission for the purpose of clause 92 (1) (a), securities of the class that are subject to the bid and securities convertible into securities of that class commencing on the third business day following the date of the bid until the expiry of the bid, if,

- (a) the intention to make such purchases is stated in the take-over bid circular;
- (b) the aggregate number of securities acquired under this subsection does not constitute in excess of 5 per cent of the outstanding securities of that class as at the date of the bid; and
- (c) the offeror issues and files a press release forthwith after the close of business of the exchange on each day on which securities have been purchased under this subsection disclosing the information prescribed by the regulations.

Restrictions
on
acquisition
during issuer
bid

(4) An offeror making an issuer bid shall not offer to acquire, or make or enter into any agreement, commitment or understanding to acquire, beneficial ownership of any securities of the class that are subject to the bid otherwise than pursuant to the bid on and from the day of the announcement of the offeror's intention to make the bid until the bid's expiry, but this subsection does not apply so as to prevent the offeror from purchasing, redeeming or otherwise acquiring any such securities during such period in reliance on an exemption under clause 92 (3) (a), (b) or (c).

Integration
with pre-bid
private
transactions

(5) Where a take-over bid that is a formal bid is made by an offeror and, within the period of ninety days immediately preceding the bid, the offeror acquired beneficial ownership of securities of the class subject to the bid pursuant to a transaction not generally available on identical terms to holders of that class of securities,

- (a) the offeror shall offer consideration for securities deposited under the bid at least equal to the highest consideration that was paid on a per security basis under any of such prior transactions or the offeror shall offer at least the cash equivalent of such consideration; and

- (b) the offeror shall offer to acquire under the bid that percentage of securities of the class subject to the bid that is at least equal to the highest percentage that the number of securities acquired from a seller in such a prior transaction was of the total number of securities of that class beneficially owned by such seller at the time of the prior transaction.

(6) An offeror shall not acquire beneficial ownership of securities of the class that was subject to the bid by way of a transaction that is not generally available on identical terms to holders of that class of securities during the period beginning with the expiry of the bid and ending at the end of the twentieth business day thereafter, and whether or not any securities are taken up under the bid.

Restriction
on
post-bid
acquisition

(7) Subsections (5) and (6) do not apply to trades effected in the normal course on a published market, so long as,

Exceptions,
normal
course
trades

- (a) any broker acting for the purchaser or seller does not perform services beyond the customary broker's function and does not receive more than reasonable fees or commissions;
- (b) the purchaser or any person or company acting for the purchaser does not solicit or arrange for the solicitation of offers to sell securities of the class subject to the bid; and
- (c) the seller or any person or company acting for the seller does not solicit or arrange for the solicitation of offers to buy securities of the class subject to the bid.

(8) An offeror shall not, except pursuant to the bid, sell or make or enter into any agreement, commitment or understanding to sell any securities of the class subject to the bid on and from the day of the announcement of the offeror's intention to make the bid until its expiry.

Sales during
bid
prohibited

(9) Notwithstanding subsection (8), an offeror, before the expiry of a bid, may make or enter into an arrangement, commitment or understanding to sell securities that may be taken up by the offeror pursuant to a bid, after the expiry of the bid, if the intention to sell is disclosed in the take-over bid circular or issuer bid circular, as the case may be.

Exception

94. Subject to the regulations, the following rules apply to every take-over bid and issuer bid:

General
provisions

- | | |
|---------------------------|---|
| Delivery of bid | 1. The bid shall be made to all holders of securities of the class that is subject to the bid who are in Ontario, and delivered by the offeror to all holders, whose last address as shown on the books of the offeree issuer is in Ontario, of securities of that class and of securities that, before the expiry of the bid, are convertible into securities of that class. |
| Minimum deposit period | 2. The offeror shall allow at least twenty-one days from the date of the bid during which securities may be deposited pursuant to the bid. |
| When taking up prohibited | 3. No securities deposited pursuant to the bid shall be taken up by the offeror until the expiration of twenty-one days from the date of the bid. |
| Withdrawal | 4. Securities deposited pursuant to the bid may be withdrawn by or on behalf of a depositing security holder, <ul style="list-style-type: none">i. at any time before the expiration of twenty-one days from the date of the bid,ii. at any time before the expiration of ten days from the date of a notice of change or variation under section 97, andiii. where the securities have not been taken up and paid for by the offeror, after forty-five days from the date of the bid. |
| Exception | 5. The right of withdrawal conferred by subparagraph ii of paragraph 4 does not apply, <ul style="list-style-type: none">i. where the securities have been taken up by the offeror at the date of the notice,ii. where a variation in the terms of a bid consists solely of an increase in the consideration offered for the securities subject to the bid and the time for deposit is not extended for a period greater than that required by subsection 97 (5), oriii. in the circumstances described in subsection 97 (6). |
| Notice of withdrawal | 6. Notice of withdrawal of any securities under paragraph 4 shall be made by or on behalf of the depositing security holder by a method that provides the |

depository designated under the bid with a written or printed copy and, to be effective, the notice must be actually received by the depository and, where notice is given in accordance with this paragraph, the offeror shall return the securities to the depositing security holder.

7. Where the bid is made for less than all of the class of securities subject to the bid and where a greater number of securities is deposited pursuant thereto than the offeror is bound or willing to acquire under the bid, the securities shall be taken up and paid for by the offeror, as nearly as may be *pro rata*, disregarding fractions, according to the number of securities deposited by each depositing security holder. *Pro rata take-up*
8. Where an offeror purchases securities as permitted by subsection 93 (3), the securities so purchased shall be counted in the determination of whether a condition as to the minimum number of securities to be deposited in the bid has been fulfilled, but shall not reduce the number of securities the offeror is bound under the bid to take up. *Effect of market purchases*
9. Subject to paragraphs 10 and 11, the offeror shall take up and pay for securities deposited under the bid, where all the terms and conditions of the bid have been complied with or waived, not later than ten days after the expiry of the bid. *When securities must be taken up and paid for*
10. Any securities that are taken up by the offeror under the bid shall be paid for by the offeror as soon as possible, and in any event not more than three days, after the taking up of the securities. *Idem*
11. Any securities deposited pursuant to the bid subsequent to the date on which the offeror first takes up securities deposited under the bid shall be taken up and paid for by the offeror within ten days of the deposit of the securities. *Idem*
12. A bid may not be extended by the offeror, where all the terms and conditions thereof have been complied with except those waived by the offeror, unless the offeror first takes up and pays for all securities deposited thereunder and not withdrawn. *Extension restricted*
13. Where all the terms and conditions of the bid have been complied with or waived, the offeror shall forthwith issue a notice by press release to that *Press release*

effect, which press release shall disclose the approximate number of securities deposited and the approximate number that will be taken up.

Financing of
bid

95. Where a take-over bid or issuer bid provides that the consideration for the securities deposited pursuant to the bid is to be paid in cash or partly in cash, the offeror shall make adequate arrangements prior to the bid to ensure that the required funds are available to effect payment in full for all securities that the offeror has offered to acquire.

Identical
consideration

96.—(1) Subject to the regulations, where a take-over bid or issuer bid is made, all holders of the same class of securities shall be offered identical consideration.

Collateral
benefit

(2) If an offeror makes or intends to make a take-over bid or issuer bid, neither the offeror nor any person or company acting jointly or in concert with the offeror shall enter into any collateral agreement, commitment or understanding with any holder or beneficial owner of securities of the offeree issuer that has the effect of providing to the holder or owner a consideration of greater value than that offered to the other holders of the same class of securities.

Increasing
consideration

(3) Where a variation in the terms of a take-over bid or issuer bid before the expiry of the bid increases the value of the consideration offered for the securities subject to the bid, the offeror shall pay such increased consideration to each person or company whose securities are taken up pursuant to the bid, whether or not such securities were taken up by the offeror before the variation.

Offeror's
circular

97.—(1) An offeror shall deliver, with or as part of a take-over bid or issuer bid, a take-over bid circular or issuer bid circular, as the case may be.

Notice of
change
in
information

(2) Where, before the expiry of a take-over bid or issuer bid or after the expiry of the bid but before the expiry of all rights to withdraw the relevant securities, a change has occurred in the information contained in a take-over bid circular or issuer bid circular or in any notice of change or notice of variation that would reasonably be expected to affect the decision of the holders of the securities of the offeree issuer to accept or reject the bid, a notice of the change shall be delivered to every person or company to whom the circular was required to be delivered and whose securities were not taken up at the date of the occurrence of the change.

Idem

(3) Subsection (2) does not apply to a change that is not within the control of the offeror or of an affiliate of the offe-

ror unless it is a change in a material fact relating to the securities being offered in exchange for securities of the offeree issuer.

(4) Where there is a variation in the terms of a take-over bid or issuer bid, including any extension of the period during which securities may be deposited thereunder and whether or not the variation results from the exercise of any right contained in the bid, a notice of the variation shall be delivered to every person or company to whom the take-over bid circular or issuer bid circular was required to be delivered and whose securities were not taken up at the date of the variation.

Variation in
terms of bid

(5) Subject to subsection (6), where there is a variation in the terms of a take-over bid or issuer bid, the period during which securities may be deposited pursuant to the bid shall not expire before ten days after the notice of variation has been delivered.

Idem

(6) Subsection (5) does not apply to a variation in the terms of a bid consisting solely of the waiver of a condition in the bid where the consideration offered for the securities that are subject to the bid consists solely of cash.

Idem

(7) A take-over bid circular, issuer bid circular, notice of change and notice of variation shall be in the form and shall contain the information required by this Part and the regulations.

Content

98.—(1) Where a take-over bid has been made, a directors' circular shall be prepared and delivered by the board of directors of an offeree issuer to every person and company to whom a take-over bid must be delivered under paragraph 1 of section 94, not later than ten days after the date of the bid.

Directors'
circular

(2) The board of directors shall include in a directors' circular either a recommendation to accept or to reject a take-over bid and the reasons for their recommendation, or a statement that they are unable to make or are not making a recommendation and if no recommendation is made, the reasons for not making a recommendation.

Recommendation
by
board

(3) An individual director or officer may recommend acceptance or rejection of a take-over bid if the director or officer delivers with the recommendation a circular prepared in accordance with the regulations.

Individual
officer's or
director's
circular

(4) Where a board of directors is considering recommending acceptance or rejection of a take-over bid, it shall, at the

Advising of
consideration

time of sending or delivering a directors' circular, advise the security holders of this fact and may advise them not to tender their securities until further communication is received from the directors.

Advising of
decision of
directors

(5) Where subsection (4) applies, the board of directors shall deliver the recommendation or the decision not to make a recommendation at least seven days before the scheduled expiry of the period during which securities may be deposited under the bid.

Notice of
change

(6) Where, before the expiry of a take-over bid or after the expiry of the bid but before the expiry of all rights to withdraw the securities that have been deposited under the bid,

- (a) a change has occurred in the information contained in a directors' circular or in any notice of change to a directors' circular that would reasonably be expected to affect the decision of the holders of the securities to accept or reject the bid, the board of directors of the offeree issuer shall forthwith deliver a notice of the change to every person or company to whom the circular was required to be sent disclosing the nature and substance of the change; or
- (b) a change has occurred in the information contained in an individual director's or officer's circular or any notice of change thereto that would reasonably be expected to affect the decision of the holders of the securities to accept or reject the bid, other than a change that is not within the control of the individual director or officer, as the case may be, the individual director or officer, as the case may be, shall forthwith deliver a notice of change in relation thereto to the board of directors.

Circulation of
individual
circulars and
notices

(7) Where an individual director or officer submits a circular under subsection (3) or a notice of change under clause (6) (b) to the board of directors, the board, at the offeree issuer's expense, shall deliver a copy of the circular or notice to the persons and companies referred to in subsection (1).

Content

(8) A directors' circular, director's or officer's circular and a notice of change shall be in the form and contain the information required by this Part and the regulations.

Delivery to
offeree issuer

99.—(1) A take-over bid and any notice of change or variation shall be filed and shall be delivered to the offeree issuer at its principal office and an issuer bid and any notice of change or variation shall be filed on the day such bid or notice

is delivered to holders of securities of the offeree issuer, or as soon as practicable thereafter.

(2) Every directors' circular and every individual director's or officer's circular or any notice of change in relation thereto that is delivered to security holders of an offeree issuer shall be filed and shall be delivered to the offeror at its principal office on the day the directors' circular or individual director's or officer's circular or the notice of change is delivered to the holders of securities of the offeree issuer, or as soon as practicable thereafter.

Delivery to
offeree issuer
and
Commission

(3) A take-over bid or issuer bid, a take-over bid circular, an issuer bid circular, a directors' circular, an individual director's or officer's circular and every notice of change or variation in any such bid or circular shall be mailed by prepaid first class mail or delivered by personal delivery or in such other manner as the Director may approve to the intended recipient and any bid, circular or notice so mailed or delivered shall be deemed to have been delivered and such bid, circular or notice shall be deemed conclusively for the purposes of sections 94, 97 and 98 and this section to have been dated as of the date on which it was so mailed or delivered to all or substantially all of the persons and companies entitled to receive it.

Delivery and
date of bid,
etc.

100.—(1) Every offeror that acquires beneficial ownership of, or the power to exercise control or direction over, or securities convertible into, voting or equity securities of any class of a reporting issuer that, together with such offeror's securities of that class, would constitute 10 per cent or more of the outstanding securities of that class,

Securities,
reports of
acquisitions

- (a) shall issue and file forthwith a press release containing the information prescribed by the regulations; and
- (b) within two business days, shall file a report containing the same information as is contained in the press release issued under clause (a).

(2) Where an offeror is required to file a report under subsection (1) or a further report under this subsection and the offeror or any person acting jointly or in concert with the offeror acquires beneficial ownership of, or the power to exercise control or direction over, or securities convertible into, an additional 2 per cent or more of the outstanding securities of the class or there is a change in any other material fact in such a report, the offeror,

Change in
material facts

- (a) shall issue and file forthwith a press release containing the information prescribed by the regulations; and
- (b) within two business days, shall file a report containing the same information as is contained in the press release issued under clause (a).

Restrictions
on
acquisitions

(3) During the period commencing on the occurrence of an event in respect of which a report or further report is required to be filed under this section and terminating on the expiry of one business day from the date that the report or further report is filed, neither the offeror nor any person or company acting jointly or in concert with the offeror shall acquire or offer to acquire beneficial ownership of any securities of the class in respect of which the report or further report is required to be filed or any securities convertible into securities of that class.

Exception

(4) Subsection (3) does not apply to an offeror that is the beneficial owner of, or has the power to exercise control or direction over, securities that, together with such offeror's securities of that class, constitute 20 per cent or more of the outstanding securities of that class.

Press release
re
acquisitions
by person
other
than offeror
during bid

100a.—(1) Where, after a formal bid has been made for voting or equity securities of an offeree issuer that is a reporting issuer and before the expiry of the bid, an offeror, other than the person or company making the bid, acquires beneficial ownership of, or the power to exercise control or direction over, securities of the class subject to the bid which, when added to such offeror's securities of that class, constitute 5 per cent or more of the outstanding securities of that class, the offeror shall, not later than the opening of trading on the next business day, issue a press release containing the information prescribed by the regulations and, forthwith, the offeror shall file a copy of the press release.

Further press
releases

(2) Where an offeror that has filed a press release under subsection (1) or a further press release under this subsection or any person or company acting jointly or in concert with the offeror acquires beneficial ownership of, or control or direction over, securities of the class subject to the bid which, when added to the securities of that class acquired after the filing of the press release by the offeror and any person or company acting jointly or in concert with the offeror, aggregates an additional 2 per cent or more of the class of outstanding securities, the offeror shall, not later than the opening of trading on the next business day, issue a further press release

containing the information prescribed by the regulations and, forthwith, the offeror shall file a copy of the press release.

100b. Where the facts required to be reported or in respect of which a press release is required to be filed under sections 100 and 100a are identical, a report or press release is required only under the provision requiring the earlier report or press release, as the case may be.

No
duplication
of reports

100c.—(1) Where, on the application of an interested person, it appears to the Commission that a person or company has not complied or is not complying with this Part or the regulations related to this Part, it may issue, subject to such terms and conditions as it may impose, an order,

Applications
to the
Commission

- (a) restraining the distribution of any document used or issued in connection with a take-over bid or issuer bid;
- (b) requiring an amendment to or variation of any document used or issued in connection with a take-over bid or issuer bid and requiring the distribution of any amended, varied or corrected document; and
- (c) directing any person or company to comply with this Part or the regulations related to this Part or restraining any person or company from contravening this Part or the regulations related to this Part and directing the directors and senior officers of the person or company to cause the person or company to comply with or to cease contravening this Part or the regulations related to this Part.

(2) Upon an application by any interested person, the Commission may, subject to such terms and conditions as it may impose,

Idem

- (a) decide for the purposes of subsection 96 (2) that an agreement, commitment or understanding with a selling security holder is made for reasons other than to increase the value of the consideration paid to the selling security holder for the securities of the selling security holder and that the agreement, commitment or understanding may be entered into notwithstanding that subsection;
- (b) vary any time period set out in this Part and the regulations related to this Part; and

- (c) exempt any person or company from any of the requirements of this Part or the regulations related to this Part where the Commission is satisfied that to do so would not be prejudicial to the public interest.

Applications
to the High
Court
Idem

100d.—(1) An interested person may apply to the High Court for an order under this section.

(2) Where, on an application under subsection (1), the judge hearing the application is satisfied that a person or company has not complied with this Part or the regulations related to this Part, the judge may make such interim or final order as the judge thinks fit, including, without limiting the generality of the foregoing,

- (a) an order compensating any interested person who is a party to the application for damages suffered as a result of a contravention of this Part or the regulations related to this Part;
- (b) an order rescinding a transaction with any interested person, including the issue of a security or a purchase and sale of a security;
- (c) an order requiring any person or company to dispose of any securities acquired pursuant to or in connection with a take-over bid or an issuer bid;
- (d) an order prohibiting any person or company from exercising any or all of the voting rights attaching to any securities; and
- (e) an order requiring the trial of an issue.

Transition

100e. This Part and section 129 and the regulations related thereto, as they read immediately before the coming into force of this section, shall continue to apply in respect of every take-over bid and issuer bid commenced before the coming into force of this section.

8. Section 103 of the said Act is repealed.

9.—(1) Subsections 127 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Liability for
misrepresentation
in circular

(1) Where a take-over bid circular sent to the security holders of an offeree issuer as required by Part XIX or any notice of change or variation in respect thereof contains a misrepresentation, every such security holder shall be deemed to have

relied on the misrepresentation and may elect to exercise a right of action for rescission or damages against the offeror or a right of action for damages against,

- (a) every person who at the time the circular or notice, as the case may be, was signed was a director of the offeror;
- (b) every person or company whose consent in respect of the circular or notice, as the case may be, has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by the person or company; and
- (c) each person who signed a certificate in the circular or notice, as the case may be, other than the persons included in clause (a).

(2) Where a directors' circular or a director's or officer's circular delivered to the security holders of an offeree issuer as required by Part XIX or any notice of change or variation in respect thereof contains a misrepresentation, every such security holder shall be deemed to have relied on the misrepresentation and has a right of action for damages against every director or officer who signed the circular or notice that contained the misrepresentation. Idem

(3) Subsection (1) applies with necessary modifications where an issuer bid circular or any notice of change or variation in respect thereof contains a misrepresentation. Idem

(4) No person or company is liable under subsection (1), (2) or (3) if the person or company proves that the security holder had knowledge of the misrepresentation. Defence

(2) Subsections 127 (10) and (11) of the said Act are repealed and the following substituted therefor:

(10) Where the offeror,

- (a) in a take-over bid exempted from the provisions of Part XIX by clause 92 (1) (a); or
- (b) in an issuer bid exempted from the provisions of Part XIX by clause 92 (3) (e),

Deemed
take-over
bid circular
or issuer bid
circular

is required, by the by-laws, regulations or policies of the stock exchange through the facilities of which the take-over bid or issuer bid is made, to file with it or to deliver to security hold-

ers of the offeree issuer a disclosure document, the disclosure document shall be deemed, for the purposes of this section, to be a take-over bid circular or issuer bid circular, as the case may be, delivered to the security holders as required by Part XIX.

No
derogation
of rights

(11) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the security holders of the offeree issuer may have at law.

10. Section 129 of the said Act is repealed.

11. Section 130 of the said Act is repealed and the following substituted therefor:

Liability of
dealer or
offeror

130. A purchaser of a security to whom a prospectus was required to be sent or delivered but was not sent or delivered in compliance with subsection 70 (1) or a security holder to whom a take-over bid and take-over bid circular or an issuer bid and an issuer bid circular, or any notice of change or variation to any such bid or circular, were required to be delivered but were not delivered in compliance with section 94 or section 97 has a right of action for rescission or damages against the dealer or offeror who failed to comply with the applicable requirement.

12.—(1) Section 139 of the said Act is amended by adding thereto the following paragraph:

18a. prescribing terms and conditions upon which a person or company may be designated as a recognized clearing agency.

(2) Paragraphs 32 and 33 of the said section 139 are repealed and the following substituted therefor:

32. respecting any other matter necessary or advisable to carry out effectively the intent and purpose of Parts XIX and XX, including, without restricting the generality of the foregoing, providing for exemptions in addition to those set out in subsections 92 (1) and (3), providing for exemptions from section 93, restricting any exemption set out in subsection 92 (1) or (3) or section 93, prescribing rules in addition to those set out in section 94 and varying any rule set out in that section and prescribing the form and content of any circular, report or other document required to be delivered or filed.

13. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

14. The short title of this Act is the *Securities Amendment Act, 1986*. Short title

Bill 156

An Act to amend the Securities Act

The Hon. M. Kwinter
Minister of Financial Institutions

1st Reading November 24th, 1986

2nd Reading February 4th, 1987

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The principal purposes of the Bill are as follows:

1. Under section 2, the Lieutenant Governor in Council will be authorized to appoint up to two additional persons as members of the Commission and to designate an additional Vice-Chairman.
2. Under the *Business Corporations Act, 1982*, provision is made for the clearing of securities through the facilities of a clearing agency recognized by the Commission. The proposed clause 18 (1) (a), section 21a and paragraph 18a of section 139 of the Act, as set out in sections 3, 4 and 15 of the Bill, provide for a regulatory framework with respect to the recognition of such clearing agencies. The new definitions set out in section 1 of the Bill are complementary to the provisions related to clearing agencies.
3. The proposed re-enactment of section 75, as set out in section 7 of the Bill, provides for new restrictions related to insider trading and tipping. Among the significant features of the changes in this section are prohibitions against trading by tippees and an expanded definition of the persons and companies who are subject to the insider trading and tipping prohibitions. Under the amendments to section 118 of the Act, as set out in section 10, the maximum fine for a contravention of the Act is increased to \$1,000,000. Higher fines may be imposed if the conviction relates to insider trading or tipping. Complementary amendments to the Act are set out in section 14 and subsection 15 (2) of the Bill.
4. Under section 8, Part XIX of the Act is re-enacted. Part XIX relates to take-over bids and issuer bids. Among the significant changes are the following:
 1. The requirement for follow-up offers as set out in the present subsection 91 (1) of the Act is replaced by new restrictions on the availability of the private agreement exemption. (Proposed clause 92 (1) (c))
 2. An early warning system is established whereby, when an offeror's holdings in any class of voting or non-voting participating securities of an issuer reaches 10 per cent, the offeror will be required to make public disclosure of the fact. (Proposed section 100)
 3. Provision is made for the integration with the bid of acquisitions made through private transactions during the ninety day period preceding a take-over bid so that offerees under the bid will receive consideration equal to the consideration paid in the private transactions. (Proposed subsection 93 (4))
 4. An offeror and those acting jointly or in concert with an offeror will be treated as one offeror.
 5. Restrictions on conditions in take-over bids are removed.
 6. The take-over bid and issuer bid requirements in the proposed sections 94 to 99 will be made applicable to voluntary acquisitions of non-voting participating securities.
 7. Take-over bids and issuer bids that are made in jurisdictions with acceptable rules related to bids and that have slight connection with Ontario will be exempted from the take-over bid and issuer bid requirements of the Act. (Proposed clauses 92 (1) (e) and 92 (3) (h))
 8. Restrictions will apply to acquisitions of securities that were subject to a take-over bid or an issuer bid for a period of twenty days following the expiry of the bid. (Proposed subsection 93 (6))
 9. Amendments are made to the rules governing take-over bids and issuer bids.

10. Under the proposed section 100e, the existing Part XIX will continue to apply in respect of take-over bids and issuer bids commenced before the new Part XIX comes into force.
11. New remedial powers are conferred on the Commission and on the High Court. (Proposed sections 100c and 100d)

The amendments to the Act set out in sections 5, 6, 9, 11, 12 and 13 and subsection 15 (1) of the Bill are complementary to the enactment of the new Part XIX of the Act.

Bill 156

1987

An Act to amend the Securities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraphs:

2a. "clearing agency" means a person or company that acts as an intermediary in paying funds or delivering securities, or both, in connection with trades in securities and that provides centralized facilities for the clearing of trades in securities;

.

34a. "recognized clearing agency" means a person or company that is designated as a recognized clearing agency by the Commission.

2. Subsection 2 (2) of the said Act is repealed and the following substituted therefor:

(2) The Commission shall be composed of a Chairman and not more than ten or less than eight other members, appointed by the Lieutenant Governor in Council, two of whom may be designated as Vice-Chairmen. Appointments

3. Clause 18 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) the financial affairs of a recognized clearing agency, registrant or reporting issuer; and

.

4. The said Act is amended by adding thereto the following Part:

PART VIII-A

CLEARING AGENCIES

Recognition
of clearing
agencies

21a.—(1) Upon the application of a person or company carrying on or proposing to carry on the business of a clearing agency, the Commission may designate the person or company as a recognized clearing agency where the Commission is satisfied that to do so would be in the public interest and that the person or company can comply with the regulations and all terms and conditions imposed by the Commission with respect to the designation.

Commission's
powers

(2) The Commission, in designating a person or company as a recognized clearing agency, shall make the designation in writing and the designation may be made subject to such terms and conditions as the Commission may impose.

Idem

(3) The Commission, after giving a recognized clearing agency an opportunity to be heard, may suspend or cancel its designation as a recognized clearing agency or may impose terms and conditions upon the designation where in its opinion such action is in the public interest.

Idem

(4) The Commission, where it appears to it to be in the public interest, may make any decision with respect to any constating document, general agreement with its participants or members, by-law, rule, regulation, procedure or practice of a recognized clearing agency, including, without limiting the generality of the foregoing, suspending the operation of or requiring an amendment to any such constating document, general agreement, by-law, rule, regulation, procedure or practice.

Review of
decisions of
recognized
clearing
agency

(5) Any person or company directly affected by any direction, order or decision made under any by-law, rule, regulation, procedure or practice of a recognized clearing agency may apply to the Commission for a hearing and review thereof and section 8 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director.

5. Paragraph 17 of subsection 34 (1) of the said Act is repealed and the following substituted therefor:

17. A trade in a security to a person or company pursuant to a take-over bid or issuer bid made by that person or company.

6. Clause 71 (1) (k) of the said Act is repealed and the following substituted therefor:

- (k) the trade is made in a security to a person or company pursuant to a take-over bid or issuer bid made by that person or company.

7. Section 75 of the said Act is repealed and the following substituted therefor:

75.—(1) No person or company in a special relationship with a reporting issuer shall purchase or sell securities of the reporting issuer with the knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed. Trading where undisclosed change

(2) No reporting issuer and no person or company in a special relationship with a reporting issuer shall inform, other than in the necessary course of business, another person or company of a material fact or material change with respect to the reporting issuer before the material fact or material change has been generally disclosed. Tipping

(3) No person or company that proposes, Idem

- (a) to make a take-over bid, as defined in Part XIX, for the securities of a reporting issuer;
- (b) to become a party to a reorganization, amalgamation, merger, arrangement or similar business combination with a reporting issuer; or
- (c) to acquire a substantial portion of the property of a reporting issuer,

shall inform another person or company of a material fact or material change with respect to the reporting issuer before the material fact or material change has been generally disclosed except where the information is given in the necessary course of business to effect the take-over bid, business combination or acquisition.


(4) No person or company shall be found to have contravened subsection (1), (2) or (3) if the person or company proves that the person or company reasonably believed that the material fact or material change had been generally disclosed. Defence

(5) For the purposes of this section, “person or company in a special relationship with a reporting issuer” means, Definition

- (a) a person or company that is an insider, affiliate or associate of,
 - (i) the reporting issuer,
 - (ii) a person or company that is proposing to make a take-over bid, as defined in Part XIX, for the securities of the reporting issuer, or
 - (iii) a person or company that is proposing to become a party to a reorganization, amalgamation, merger or arrangement or similar business combination with the reporting issuer or to acquire a substantial portion of its property;
- (b) a person or company that is engaging in or proposes to engage in any business or professional activity with or on behalf of the reporting issuer or with or on behalf of a person or company described in subclause (a) (ii) or (iii);
- (c) a person who is a director, officer or employee of the reporting issuer or of a person or company described in subclause (a) (ii) or (iii) or clause (b);
- (d) a person or company that learned of the material fact or material change with respect to the reporting issuer while the person or company was a person or company described in clause (a), (b) or (c);
- (e) a person or company that learns of a material fact or material change with respect to the issuer from any other person or company described in this subsection, including a person or company described in this clause, and knows or ought reasonably to have known that the other person or company is a person or company in such a relationship.

Idem

(6) For the purpose of subsection (1), a security of the reporting issuer shall be deemed to include,

- (a) a put, call, option or other right or obligation to purchase or sell securities of the reporting issuer; or
- (b) a security, the market price of which varies materially with the market price of the securities of the issuer. 

8. Part XIX of the said Act is repealed and the following substituted therefor:

PART XIX

TAKE-OVER BIDS AND ISSUER BIDS

88.—(1) In this Part,

Definitions

“business day” means a day other than a Saturday or a holiday;

“class of securities” includes a series of a class of securities;

“equity security” means any security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon the liquidation or winding up of the issuer, in its assets;

“formal bid” means,

- (a) a take-over bid or an issuer bid to which section 94 applies, or
- (b) a take-over bid that is exempted from sections 94 to 99 or an issuer bid that is exempted from sections 94, 95, 96, 97 and 99,
 - (i) by reason of an exemption under clause 92 (1) (a) or 92 (3) (e), if the offeror is required to deliver to every security holder whose last address as shown on the books of the offeree issuer is in Ontario a disclosure document of the type contemplated by subsection 127 (10), or
 - (ii) by reason of an exemption under clause 92 (1) (e) or 92 (3) (h), if the offeror is required to deliver disclosure material relating to the bid to holders of the class of securities subject to the bid;

“interested person” means, for the purposes of sections 100c and 100d,

- (a) an offeree issuer,
- (b) a security holder, director or officer of an offeree issuer,

- (c) an offeror,
- (d) the Director, and
- (e) any person or company not referred to in clauses (a) to (d) who in the opinion of the Commission or the Court, as the case may be, is a proper person to make an application under section 100c or 100d, as the case may be;

“issuer bid” means an offer to acquire or redeem securities of an issuer made by the issuer to any person or company who is in Ontario or to any security holder of the issuer whose last address as shown on the books of the issuer is in Ontario and includes a purchase, redemption or other acquisition of securities of the issuer by the issuer from any such person or company, but does not include an offer to acquire or redeem debt securities that are not convertible into securities other than debt securities;

“offer to acquire” includes,

- (a) an offer to purchase, or a solicitation of an offer to sell, securities,
- (b) an acceptance of an offer to sell securities, whether or not such offer to sell has been solicited,

or any combination thereof, and the person or company accepting an offer to sell shall be deemed to be making an offer to acquire to the person or company that made the offer to sell;

“offeree issuer” means an issuer whose securities are the subject of a take-over bid, an issuer bid or an offer to acquire;

“offeror” means a person or company who makes a take-over bid, an issuer bid or an offer to acquire and, for the purposes of section 100, includes a person or company who acquires a security, whether or not by way of a take-over bid, issuer bid or offer to acquire;

“offeror’s securities” means securities of an offeree issuer beneficially owned, or over which control or direction is exercised, on the date of an offer to acquire, by an offeror or any person or company acting jointly or in concert with the offeror;

“published market” means, as to any class of securities, any market on which such securities are traded if the prices at

which they have been traded on that market are regularly published in a *bona fide* newspaper or business or financial publication of general and regular paid circulation;

“take-over bid” means an offer to acquire outstanding voting or equity securities of a class made to any person or company who is in Ontario or to any security holder of the offeree issuer whose last address as shown on the books of the offeree issuer is in Ontario, where the securities subject to the offer to acquire, together with the offeror’s securities, constitute in the aggregate 20 per cent or more of the outstanding securities of that class of securities at the date of the offer to acquire.

(2) For the purposes of this Part,

Computation
of time,
expiry
of bid

- (a) a period of days shall be computed as commencing on the day next following the event which began the period and terminating at midnight on the last day of the period, except that if the last day of the period does not fall on a business day, the period terminates at midnight on the next business day; and
- (b) a take-over bid or an issuer bid expires at the later of,
 - (i) the end of the period, including any extension, during which securities may be deposited pursuant to the bid, and
 - (ii) the time at which the offeror becomes obligated by the terms of the bid to take-up or reject securities deposited thereunder.

(3) For the purposes of this Part,

Convertible
securities

- (a) a security shall be deemed to be convertible into a security of another class if, whether or not on conditions, it is or may be convertible into or exchangeable for, or if it carries the right or obligation to acquire, a security of the other class, whether of the same or another issuer; and
- (b) a security that is convertible into a security of another class shall be deemed to be convertible into a security or securities of each class into which the second-mentioned security may be converted, either directly or through securities of one or more other classes of securities that are themselves convertible.

Deemed
beneficial
ownership

89.—(1) For the purposes of this Part, in determining the beneficial ownership of securities of an offeror or of any person or company acting jointly or in concert with the offeror, at any given date, the offeror, person or company shall be deemed to have acquired and be the beneficial owner of a security, including an unissued security, if the offeror, person or company is the beneficial owner of any security convertible within sixty days following such date into such a security or has the right or obligation, whether or not on conditions, to acquire within such sixty days beneficial ownership of the security whether through the exercise of an option, warrant, right or subscription privilege or otherwise.

Calculation
of
holdings,
joint offers

(2) Where two or more offerors acting jointly or in concert make one or more offers to acquire securities of a class, the securities subject to any such offer or offers to acquire shall be deemed to be securities subject to the offer to acquire of each such offeror for the purpose of determining whether any such offeror is making a take-over bid.

Unissued
securities
deemed
outstanding

(3) Where an offeror or any person or company acting jointly or in concert with the offeror is deemed by reason of subsection (1) to be the beneficial owner of unissued securities, the securities shall be deemed to be outstanding for the purpose of calculating the number of outstanding securities of that class in respect of that offeror's offer to acquire.

Acting jointly
or in concert

90.—(1) For the purposes of this Part, it is a question of fact as to whether a person or company is acting jointly or in concert with an offeror and, without limiting the generality of the foregoing, the following shall be presumed to be acting jointly or in concert with an offeror:

1. Every person or company who, as a result of any agreement, commitment or understanding, whether formal or informal, with the offeror or with any other person or company acting jointly or in concert with the offeror, acquires or offers to acquire securities of the issuer of the same class as those subject to the offer to acquire.
2. Every person or company who, as a result of any agreement, commitment or understanding, whether formal or informal, with the offeror or with any other person or company acting jointly or in concert with the offeror, intends to exercise jointly or in concert with the offeror or with any other person or company acting jointly or in concert with the offeror any voting rights attaching to any securities of the offeree issuer.

3. Every associate or affiliate of the offeror.

(2) Notwithstanding subsection (1), a registered dealer acting solely in an agency capacity for the offeror in connection with a take-over bid or an issuer bid and not executing principal transactions for its own account in the class of securities subject to the offer to acquire or performing services beyond customary dealer's functions shall not be presumed solely by reason of such agency relationship to be acting jointly or in concert with the offeror in connection with the bid.

Limitation

91. For the purposes of this Part, a reference to an offer to acquire or to the acquisition or ownership of securities or to control or direction over securities shall be construed to include a direct or indirect offer to acquire or the direct or indirect acquisition or ownership of securities, or the direct or indirect control or direction over securities, as the case may be.

Application to direct and indirect offers, etc.

92.—(1) Subject to the regulations, a take-over bid is exempt from sections 94 to 99 if,

Exempted take-over bids

(a) the bid is made through the facilities of a stock exchange recognized by the Commission for the purposes of this clause;

(b) the bid is for not more than 5 per cent of the outstanding securities of a class of securities of the issuer and,

(i) the aggregate number of securities acquired by the offeror and any person or company acting jointly or in concert with the offeror within any period of twelve months in reliance upon the exemption provided by this clause does not, when aggregated with acquisitions otherwise made by the offeror and any person or company acting jointly or in concert with the offeror within the same twelve month period, constitute in excess of 5 per cent of the outstanding securities of that class of the issuer at the commencement of the twelve month period, and

(ii) if there is a published market for the securities acquired, the value of the consideration paid for any of the securities acquired is not in excess of the market price at the date of acquisition determined in accordance with the

regulations plus reasonable brokerage fees or commissions actually paid;

- (c) all of the following conditions apply,
 - (i) purchases are made from not more than five persons or companies in the aggregate, including persons or companies outside of Ontario,
 - (ii) the bid is not made generally to security holders of the class of securities that is the subject of the bid, and
 - (iii) the value of the consideration paid for any of the securities, including brokerage fees or commissions, does not exceed 115 per cent of the market price of securities of that class at the date of the bid determined in accordance with the regulations;
- (d) the offeree issuer is not a reporting issuer, there is not a published market in respect of the securities that are the subject of the bid, and the number of holders of securities of that class is not more than fifty, exclusive of holders who are in the employment of the offeree issuer or an affiliate of the offeree issuer, and exclusive of holders who were formerly in the employment of the offeree issuer or an affiliate of the offeree issuer and who while in that employment were, and have continued after that employment to be, security holders of the offeree issuer;
- (e) the number of holders, whose last address as shown on the books of the offeree issuer is in Ontario, of securities of the class subject to the bid is fewer than fifty and the securities held by such holders constitute, in the aggregate, less than 2 per cent of the outstanding securities of that class, the bid is made in compliance with the laws of a jurisdiction that is recognized for the purposes of this clause by the Commission, and all material relating to the bid that is sent by the offeror to holders of securities of the class that is subject to the bid is concurrently sent to all holders of such securities whose last address as shown on the books of the offeree issuer is in Ontario and filed; or
- (f) it is exempted by the regulations.

(2) For the purposes of clause (1) (c), where an offeror makes an offer to acquire securities from a person or company and the offeror knows or ought to know after reasonable enquiry that,

Determi-
nation
of number of
security
holders

- (a) one or more other persons or companies on whose behalf that person or company is acting as nominee, agent, trustee, executor, administrator or other legal representative has a direct beneficial interest in those securities, then each of such others shall be included in the determination of the number of persons and companies to whom the offer to acquire has been made, but, where an *inter vivos* trust has been established by a single settlor or where an estate has not vested in all persons beneficially entitled thereto, the trust or estate shall be considered a single security holder in such determination; or
- (b) the person or company acquired the securities in order that the offeror might make use of the exemption provided by clause (1) (c), then each person or company from whom those securities were acquired shall be included in the determination of the number of persons and companies to whom the offer to acquire has been made.

(3) Subject to the regulations, an issuer bid is exempt from sections 94, 95, 96, 97 and 99 if,

Exempted
issuer bids

- (a) the securities are purchased, redeemed or otherwise acquired in accordance with terms and conditions attaching thereto that permit the purchase, redemption or acquisition of the securities by the issuer without the prior agreement of the owners of the securities, or where the securities are acquired to meet sinking fund or purchase fund requirements;
- (b) the purchase, redemption or other acquisition is required by the instrument creating or governing the class of securities or by the statute under which the issuer was incorporated, organized or continued;
- (c) the securities carry with them or are accompanied by a right of the owner of the securities to require the issuer to redeem or repurchase the securities and the securities are acquired pursuant to the exercise of such right;

- (d) the securities are acquired from a current or former employee of the issuer or of an affiliate of the issuer, and if there is a published market in respect of the securities,
 - (i) the value of the consideration paid for any of the securities acquired does not exceed the market price of the securities at the date of the acquisition determined in accordance with the regulations, and
 - (ii) the aggregate number or, in the case of convertible debt securities, the aggregate principal amount of securities acquired by the issuer within a period of twelve months in reliance on the exemption provided by this clause does not exceed 5 per cent of the securities of that class issued and outstanding at the commencement of the period;
- (e) the bid is made through the facilities of a stock exchange recognized by the Commission for the purpose of this clause;
- (f) following the publication of a notice of intention in the form and manner prescribed by the regulations, the issuer purchases securities in the normal course in the open market, including through the facilities of a stock exchange, if the aggregate number, or, in the case of convertible debt securities, the aggregate principal amount, of securities acquired by the issuer within a period of twelve months in reliance on the exemption provided by this clause does not exceed 5 per cent of the securities of that class issued and outstanding at the commencement of the period;
- (g) the issuer is not a reporting issuer, there is not a published market in respect of the securities that are the subject of the bid and the number of holders of securities of the issuer is not more than fifty, exclusive of holders who are in the employment of the issuer or an affiliate of the issuer, and exclusive of holders who were formerly in the employment of the issuer or an affiliate of the issuer and who while in that employment were, and have continued after the employment to be, security holders of the issuer;

- (h) the number of holders, whose last address as shown on the books of the issuer is in Ontario, of securities of the class subject to the bid is fewer than fifty and the securities held by such holders constitute, in the aggregate, less than 2 per cent of the outstanding securities of that class, the bid is made in compliance with the laws of a jurisdiction that is recognized for the purposes of this clause by the Commission, and all material relating to the bid that is sent by the offeror to holders of securities of the class that is subject to the bid is concurrently sent to all holders of such securities whose last address as shown on the books of the issuer is in Ontario and filed; or

- (i) it is exempted by the regulations.

(4) A bid that is made in reliance upon any exemption in this section through the facilities of a stock exchange shall be made in accordance with the by-laws, regulations and policies of the exchange.

Stock
exchange
requirements

93.—(1) In this section, “offeror” means,

Definition

- (a) an offeror making a formal bid other than a bid referred to in clause 92 (1) (e) or 92 (3) (h);
- (b) a person or company acting jointly or in concert with an offeror referred to in clause (a);
- (c) a security holder of an offeror referred to in clause (a) who, as regards the offeror, is a person or company or a member of a combination of persons or companies referred to in subparagraph iii of paragraph 11 of subsection 1 (1) or an associate or affiliate of such security holder.

(2) An offeror shall not offer to acquire or make, or enter into, any agreement, commitment or understanding to acquire beneficial ownership of any securities of the class that are subject to a take-over bid otherwise than pursuant to the bid on and from the day of the announcement of the offeror’s intention to make the bid until its expiry.

Restrictions
on
acquisitions
during
take-over
bid

(3) Notwithstanding subsection (2), an offeror making a take-over bid may purchase, through the facilities of a stock exchange recognized by the Commission for the purpose of clause 92 (1) (a), securities of the class that are subject to the bid and securities convertible into securities of that class com-

Permitted
purchases
during
take-over bid

mencing on the third business day following the date of the bid until the expiry of the bid, if,

- (a) the intention to make such purchases is stated in the take-over bid circular;
- (b) the aggregate number of securities acquired under this subsection does not constitute in excess of 5 per cent of the outstanding securities of that class as at the date of the bid; and
- (c) the offeror issues and files a press release forthwith after the close of business of the exchange on each day on which securities have been purchased under this subsection disclosing the information prescribed by the regulations.

Restrictions
on
acquisition
during issuer
bid

(4) An offeror making an issuer bid shall not offer to acquire, or make or enter into any agreement, commitment or understanding to acquire, beneficial ownership of any securities of the class that are subject to the bid otherwise than pursuant to the bid on and from the day of the announcement of the offeror's intention to make the bid until the bid's expiry, but this subsection does not apply so as to prevent the offeror from purchasing, redeeming or otherwise acquiring any such securities during such period in reliance on an exemption under clause 92 (3) (a), (b) or (c).

Integration
with pre-bid
private
transactions

(5) Where a take-over bid that is a formal bid is made by an offeror and, within the period of ninety days immediately preceding the bid, the offeror acquired beneficial ownership of securities of the class subject to the bid pursuant to a transaction not generally available on identical terms to holders of that class of securities,

- (a) the offeror shall offer consideration for securities deposited under the bid at least equal to the highest consideration that was paid on a per security basis under any of such prior transactions or the offeror shall offer at least the cash equivalent of such consideration; and
- (b) the offeror shall offer to acquire under the bid that percentage of securities of the class subject to the bid that is at least equal to the highest percentage that the number of securities acquired from a seller in such a prior transaction was of the total number of securities of that class beneficially owned by such seller at the time of the prior transaction.

(6) An offeror shall not acquire beneficial ownership of securities of the class that was subject to the bid by way of a transaction that is not generally available on identical terms to holders of that class of securities during the period beginning with the expiry of the bid and ending at the end of the twentieth business day thereafter, and whether or not any securities are taken up under the bid.

Restriction
on
post-bid
acquisition

(7) Subsections (5) and (6) do not apply to trades effected in the normal course on a published market, so long as,

Exceptions,
normal
course
trades

- (a) any broker acting for the purchaser or seller does not perform services beyond the customary broker's function and does not receive more than reasonable fees or commissions;
- (b) the purchaser or any person or company acting for the purchaser does not solicit or arrange for the solicitation of offers to sell securities of the class subject to the bid; and
- (c) the seller or any person or company acting for the seller does not solicit or arrange for the solicitation of offers to buy securities of the class subject to the bid.

(8) An offeror shall not, except pursuant to the bid, sell or make or enter into any agreement, commitment or understanding to sell any securities of the class subject to the bid on and from the day of the announcement of the offeror's intention to make the bid until its expiry.

Sales during
bid
prohibited

(9) Notwithstanding subsection (8), an offeror, before the expiry of a bid, may make or enter into an arrangement, commitment or understanding to sell securities that may be taken up by the offeror pursuant to a bid, after the expiry of the bid, if the intention to sell is disclosed in the take-over bid circular or issuer bid circular, as the case may be.

Exception

94. Subject to the regulations, the following rules apply to every take-over bid and issuer bid:

General
provisions

- 1. The bid shall be made to all holders of securities of the class that is subject to the bid who are in Ontario, and delivered by the offeror to all holders, whose last address as shown on the books of the offeree issuer is in Ontario, of securities of that class and of securities that, before the expiry of the bid, are convertible into securities of that class.

Delivery
of bid

Minimum
deposit
period

2. The offeror shall allow at least twenty-one days from the date of the bid during which securities may be deposited pursuant to the bid.

When
taking up
prohibited

3. No securities deposited pursuant to the bid shall be taken up by the offeror until the expiration of twenty-one days from the date of the bid.

Withdrawal

4. Securities deposited pursuant to the bid may be withdrawn by or on behalf of a depositing security holder,

i. at any time before the expiration of twenty-one days from the date of the bid,

ii. at any time before the expiration of ten days from the date of a notice of change or variation under section 97, and

iii. where the securities have not been taken up and paid for by the offeror, after forty-five days from the date of the bid.

Exception

5. The right of withdrawal conferred by subparagraph ii of paragraph 4 does not apply,

i. where the securities have been taken up by the offeror at the date of the notice,

ii. where a variation in the terms of a bid consists solely of an increase in the consideration offered for the securities subject to the bid and the time for deposit is not extended for a period greater than that required by subsection 97 (5), or

iii. in the circumstances described in subsection 97 (6).

Notice of
withdrawal

6. Notice of withdrawal of any securities under paragraph 4 shall be made by or on behalf of the depositing security holder by a method that provides the depositary designated under the bid with a written or printed copy and, to be effective, the notice must be actually received by the depositary and, where notice is given in accordance with this paragraph, the offeror shall return the securities to the depositing security holder.

7. Where the bid is made for less than all of the class of securities subject to the bid and where a greater number of securities is deposited pursuant thereto than the offeror is bound or willing to acquire under the bid, the securities shall be taken up and paid for by the offeror, as nearly as may be *pro rata*, disregarding fractions, according to the number of securities deposited by each depositing security holder. *Pro rata take-up*
8. Where an offeror purchases securities as permitted by subsection 93 (3), the securities so purchased shall be counted in the determination of whether a condition as to the minimum number of securities to be deposited in the bid has been fulfilled, but shall not reduce the number of securities the offeror is bound under the bid to take up. *Effect of market purchases*
9. Subject to paragraphs 10 and 11, the offeror shall take up and pay for securities deposited under the bid, where all the terms and conditions of the bid have been complied with or waived, not later than ten days after the expiry of the bid. *When securities must be taken up and paid for*
10. Any securities that are taken up by the offeror under the bid shall be paid for by the offeror as soon as possible, and in any event not more than three days, after the taking up of the securities. *Idem*
11. Any securities deposited pursuant to the bid subsequent to the date on which the offeror first takes up securities deposited under the bid shall be taken up and paid for by the offeror within ten days of the deposit of the securities. *Idem*
12. A bid may not be extended by the offeror, where all the terms and conditions thereof have been complied with except those waived by the offeror, unless the offeror first takes up and pays for all securities deposited thereunder and not withdrawn. *Extension restricted*
13. Where all the terms and conditions of the bid have been complied with or waived, the offeror shall forthwith issue a notice by press release to that effect, which press release shall disclose the approximate number of securities deposited and the approximate number that will be taken up. *Press release*
- 95.** Where a take-over bid or issuer bid provides that the consideration for the securities deposited pursuant to the bid is to be paid in cash or partly in cash, the offeror shall make *Financing of bid*

adequate arrangements prior to the bid to ensure that the required funds are available to effect payment in full for all securities that the offeror has offered to acquire.

Identical
consideration

96.—(1) Subject to the regulations, where a take-over bid or issuer bid is made, all holders of the same class of securities shall be offered identical consideration.

Collateral
benefit

(2) If an offeror makes or intends to make a take-over bid or issuer bid, neither the offeror nor any person or company acting jointly or in concert with the offeror shall enter into any collateral agreement, commitment or understanding with any holder or beneficial owner of securities of the offeree issuer that has the effect of providing to the holder or owner a consideration of greater value than that offered to the other holders of the same class of securities.

Increasing
consideration

(3) Where a variation in the terms of a take-over bid or issuer bid before the expiry of the bid increases the value of the consideration offered for the securities subject to the bid, the offeror shall pay such increased consideration to each person or company whose securities are taken up pursuant to the bid, whether or not such securities were taken up by the offeror before the variation.

Offeror's
circular

97.—(1) An offeror shall deliver, with or as part of a take-over bid or issuer bid, a take-over bid circular or issuer bid circular, as the case may be.

Notice of
change
in
information

(2) Where, before the expiry of a take-over bid or issuer bid or after the expiry of the bid but before the expiry of all rights to withdraw the relevant securities, a change has occurred in the information contained in a take-over bid circular or issuer bid circular or in any notice of change or notice of variation that would reasonably be expected to affect the decision of the holders of the securities of the offeree issuer to accept or reject the bid, a notice of the change shall be delivered to every person or company to whom the circular was required to be delivered and whose securities were not taken up at the date of the occurrence of the change.

Idem

(3) Subsection (2) does not apply to a change that is not within the control of the offeror or of an affiliate of the offeror unless it is a change in a material fact relating to the securities being offered in exchange for securities of the offeree issuer.

Variation in
terms of bid

(4) Where there is a variation in the terms of a take-over bid or issuer bid, including any extension of the period during which securities may be deposited thereunder and whether or

not the variation results from the exercise of any right contained in the bid, a notice of the variation shall be delivered to every person or company to whom the take-over bid circular or issuer bid circular was required to be delivered and whose securities were not taken up at the date of the variation.

(5) Subject to subsection (6), where there is a variation in the terms of a take-over bid or issuer bid, the period during which securities may be deposited pursuant to the bid shall not expire before ten days after the notice of variation has been delivered. Idem

(6) Subsection (5) does not apply to a variation in the terms of a bid consisting solely of the waiver of a condition in the bid where the consideration offered for the securities that are subject to the bid consists solely of cash. Idem

(7) A take-over bid circular, issuer bid circular, notice of change and notice of variation shall be in the form and shall contain the information required by this Part and the regulations. Content

98.—(1) Where a take-over bid has been made, a directors' circular shall be prepared and delivered by the board of directors of an offeree issuer to every person and company to whom a take-over bid must be delivered under paragraph 1 of section 94, not later than ten days after the date of the bid. Directors' circular

(2) The board of directors shall include in a directors' circular either a recommendation to accept or to reject a take-over bid and the reasons for their recommendation, or a statement that they are unable to make or are not making a recommendation and if no recommendation is made, the reasons for not making a recommendation. Recommendation by board

(3) An individual director or officer may recommend acceptance or rejection of a take-over bid if the director or officer delivers with the recommendation a circular prepared in accordance with the regulations. Individual officer's or director's circular

(4) Where a board of directors is considering recommending acceptance or rejection of a take-over bid, it shall, at the time of sending or delivering a directors' circular, advise the security holders of this fact and may advise them not to tender their securities until further communication is received from the directors. Advising of consideration

(5) Where subsection (4) applies, the board of directors shall deliver the recommendation or the decision not to make Advising of decision of directors

a recommendation at least seven days before the scheduled expiry of the period during which securities may be deposited under the bid.

Notice of
change

(6) Where, before the expiry of a take-over bid or after the expiry of the bid but before the expiry of all rights to withdraw the securities that have been deposited under the bid,

- (a) a change has occurred in the information contained in a directors' circular or in any notice of change to a directors' circular that would reasonably be expected to affect the decision of the holders of the securities to accept or reject the bid, the board of directors of the offeree issuer shall forthwith deliver a notice of the change to every person or company to whom the circular was required to be sent disclosing the nature and substance of the change; or
- (b) a change has occurred in the information contained in an individual director's or officer's circular or any notice of change thereto that would reasonably be expected to affect the decision of the holders of the securities to accept or reject the bid, other than a change that is not within the control of the individual director or officer, as the case may be, the individual director or officer, as the case may be, shall forthwith deliver a notice of change in relation thereto to the board of directors.

Circulation of
individual
circulars and
notices

(7) Where an individual director or officer submits a circular under subsection (3) or a notice of change under clause (6) (b) to the board of directors, the board, at the offeree issuer's expense, shall deliver a copy of the circular or notice to the persons and companies referred to in subsection (1).

Content

(8) A directors' circular, director's or officer's circular and a notice of change shall be in the form and contain the information required by this Part and the regulations.

Delivery to
offeree issuer

99.—(1) A take-over bid and any notice of change or variation shall be filed and shall be delivered to the offeree issuer at its principal office and an issuer bid and any notice of change or variation shall be filed on the day such bid or notice is delivered to holders of securities of the offeree issuer, or as soon as practicable thereafter.

Delivery to
offeree issuer
and
Commission

(2) Every directors' circular and every individual director's or officer's circular or any notice of change in relation thereto that is delivered to security holders of an offeree issuer shall be filed and shall be delivered to the offeror at its principal

office on the day the directors' circular or individual director's or officer's circular or the notice of change is delivered to the holders of securities of the offeree issuer, or as soon as practicable thereafter.

(3) A take-over bid or issuer bid, a take-over bid circular, an issuer bid circular, a directors' circular, an individual director's or officer's circular and every notice of change or variation in any such bid or circular shall be mailed by prepaid first class mail or delivered by personal delivery or in such other manner as the Director may approve to the intended recipient and any bid, circular or notice so mailed or delivered shall be deemed to have been delivered and such bid, circular or notice shall be deemed conclusively for the purposes of sections 94, 97 and 98 and this section to have been dated as of the date on which it was so mailed or delivered to all or substantially all of the persons and companies entitled to receive it.

Delivery and
date of bid,
etc.

100.—(1) Every offeror that acquires beneficial ownership of, or the power to exercise control or direction over, or securities convertible into, voting or equity securities of any class of a reporting issuer that, together with such offeror's securities of that class, would constitute 10 per cent or more of the outstanding securities of that class,

Securities,
reports of
acquisitions

- (a) shall issue and file forthwith a press release containing the information prescribed by the regulations; and
- (b) within two business days, shall file a report containing the same information as is contained in the press release issued under clause (a).

(2) Where an offeror is required to file a report under subsection (1) or a further report under this subsection and the offeror or any person acting jointly or in concert with the offeror acquires beneficial ownership of, or the power to exercise control or direction over, or securities convertible into, an additional 2 per cent or more of the outstanding securities of the class or there is a change in any other material fact in such a report, the offeror,

Change in
material facts

- (a) shall issue and file forthwith a press release containing the information prescribed by the regulations; and
- (b) within two business days, shall file a report containing the same information as is contained in the press release issued under clause (a).

Restrictions
on
acquisitions

(3) During the period commencing on the occurrence of an event in respect of which a report or further report is required to be filed under this section and terminating on the expiry of one business day from the date that the report or further report is filed, neither the offeror nor any person or company acting jointly or in concert with the offeror shall acquire or offer to acquire beneficial ownership of any securities of the class in respect of which the report or further report is required to be filed or any securities convertible into securities of that class.

Exception

(4) Subsection (3) does not apply to an offeror that is the beneficial owner of, or has the power to exercise control or direction over, securities that, together with such offeror's securities of that class, constitute 20 per cent or more of the outstanding securities of that class.

Press release
re
acquisitions
by person
other
than offeror
during bid

100a.—(1) Where, after a formal bid has been made for voting or equity securities of an offeree issuer that is a reporting issuer and before the expiry of the bid, an offeror, other than the person or company making the bid, acquires beneficial ownership of, or the power to exercise control or direction over, securities of the class subject to the bid which, when added to such offeror's securities of that class, constitute 5 per cent or more of the outstanding securities of that class, the offeror shall, not later than the opening of trading on the next business day, issue a press release containing the information prescribed by the regulations and, forthwith, the offeror shall file a copy of the press release.

Further press
releases

(2) Where an offeror that has filed a press release under subsection (1) or a further press release under this subsection or any person or company acting jointly or in concert with the offeror acquires beneficial ownership of, or control or direction over, securities of the class subject to the bid which, when added to the securities of that class acquired after the filing of the press release by the offeror and any person or company acting jointly or in concert with the offeror, aggregates an additional 2 per cent or more of the class of outstanding securities, the offeror shall, not later than the opening of trading on the next business day, issue a further press release containing the information prescribed by the regulations and, forthwith, the offeror shall file a copy of the press release.

No
duplication
of reports

100b. Where the facts required to be reported or in respect of which a press release is required to be filed under sections 100 and 100a are identical, a report or press release is required only under the provision requiring the earlier report or press release, as the case may be.

100c.—(1) Where, on the application of an interested person, it appears to the Commission that a person or company has not complied or is not complying with this Part or the regulations related to this Part, it may issue, subject to such terms and conditions as it may impose, an order,

Applications
to the
Commission

- (a) restraining the distribution of any document used or issued in connection with a take-over bid or issuer bid;
- (b) requiring an amendment to or variation of any document used or issued in connection with a take-over bid or issuer bid and requiring the distribution of any amended, varied or corrected document; and
- (c) directing any person or company to comply with this Part or the regulations related to this Part or restraining any person or company from contravening this Part or the regulations related to this Part and directing the directors and senior officers of the person or company to cause the person or company to comply with or to cease contravening this Part or the regulations related to this Part.

(2) Upon an application by any interested person, the Commission may, subject to such terms and conditions as it may impose,

Idem

- (a) decide for the purposes of subsection 96 (2) that an agreement, commitment or understanding with a selling security holder is made for reasons other than to increase the value of the consideration paid to the selling security holder for the securities of the selling security holder and that the agreement, commitment or understanding may be entered into notwithstanding that subsection;
- (b) vary any time period set out in this Part and the regulations related to this Part; and
- (c) exempt any person or company from any of the requirements of this Part or the regulations related to this Part where the Commission is satisfied that to do so would not be prejudicial to the public interest.

100d.—(1) An interested person may apply to the High Court for an order under this section.

Applications
to
the High
Court

Idem

(2) Where, on an application under subsection (1), the judge hearing the application is satisfied that a person or company has not complied with this Part or the regulations related to this Part, the judge may make such interim or final order as the judge thinks fit, including, without limiting the generality of the foregoing,

- (a) an order compensating any interested person who is a party to the application for damages suffered as a result of a contravention of this Part or the regulations related to this Part;
- (b) an order rescinding a transaction with any interested person, including the issue of a security or a purchase and sale of a security;
- (c) an order requiring any person or company to dispose of any securities acquired pursuant to or in connection with a take-over bid or an issuer bid;
- (d) an order prohibiting any person or company from exercising any or all of the voting rights attaching to any securities; and
- (e) an order requiring the trial of an issue.

Transition

100e. This Part and section 129 and the regulations related thereto, as they read immediately before the coming into force of this section, shall continue to apply in respect of every take-over bid and issuer bid commenced before the coming into force of this section.

9. Section 103 of the said Act is repealed.



10.—(1) Subsection 118 (1) of the said Act is amended by striking out “and on summary conviction is liable, in the case of a person, other than an individual, or company, to a fine of not more than \$25,000 and, in the case of an individual, to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both” in the twenty-first, twenty-second, twenty-third, twenty-fourth and twenty-fifth lines and inserting in lieu thereof “and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than two years, or to both”.

(2) Subsection 118 (3) of the said Act is repealed and the following substituted therefor:

(3) Where a company or a person other than an individual is guilty of an offence under subsection (1), every director or

Directors
and
officers

officer of such company or person who authorized, permitted, or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than two years, or to both.

(4) Where a person or company has contravened subsection 75 (1), (2) or (3) and the person or company has made a profit by reason of the contravention, the fine to which the person or company is liable on conviction shall be not less than the profit made by the person or company by reason of the contravention and not more than the greater of,

Fine for
contravention
of subs. 75
(1, 2 or 3)

(a) \$1,000,000; and

(b) an amount equal to triple the profit made by such person or company by reason of the contravention,


and subsection (1) does not apply in such circumstances.

(5) For the purposes of subsection (4), "profit" means,

Definition

(a) if the accused purchased securities in contravention of subsection 75 (1), the average market price of the security in the twenty trading days following general disclosure of the material fact or material change less the amount that the accused paid for the security;

(b) if the accused sold securities in contravention of subsection 75 (1), the amount that the accused received for the security less the average market price of the security in the twenty trading days following general disclosure of the material fact or material change;

(c) if the accused informed another person or company of a material fact or material change in contravention of subsection 75 (2) or (3) and received any direct or indirect consideration for providing such information, the value of the consideration received. 

11.—(1) Subsections 127 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

(1) Where a take-over bid circular sent to the security holders of an offeree issuer as required by Part XIX or any notice of change or variation in respect thereof contains a misrepresentation, every such security holder shall be deemed to have

Liability for
misrepresentation
in circular

relied on the misrepresentation and may elect to exercise a right of action for rescission or damages against the offeror or a right of action for damages against,

- (a) every person who at the time the circular or notice, as the case may be, was signed was a director of the offeror;
- (b) every person or company whose consent in respect of the circular or notice, as the case may be, has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by the person or company; and
- (c) each person who signed a certificate in the circular or notice, as the case may be, other than the persons included in clause (a).

Idem

(2) Where a directors' circular or a director's or officer's circular delivered to the security holders of an offeree issuer as required by Part XIX or any notice of change or variation in respect thereof contains a misrepresentation, every such security holder shall be deemed to have relied on the misrepresentation and has a right of action for damages against every director or officer who signed the circular or notice that contained the misrepresentation.

Idem

(3) Subsection (1) applies with necessary modifications where an issuer bid circular or any notice of change or variation in respect thereof contains a misrepresentation.

Defence

(4) No person or company is liable under subsection (1), (2) or (3) if the person or company proves that the security holder had knowledge of the misrepresentation.

(2) Subsections 127 (10) and (11) of the said Act are repealed and the following substituted therefor:

Deemed
take-over
bid circular
or issuer bid
circular

(10) Where the offeror,

- (a) in a take-over bid exempted from the provisions of Part XIX by clause 92 (1) (a); or
- (b) in an issuer bid exempted from the provisions of Part XIX by clause 92 (3) (e),

is required, by the by-laws, regulations or policies of the stock exchange through the facilities of which the take-over bid or issuer bid is made, to file with it or to deliver to security hold-

ers of the offeree issuer a disclosure document, the disclosure document shall be deemed, for the purposes of this section, to be a take-over bid circular or issuer bid circular, as the case may be, delivered to the security holders as required by Part XIX.

(11) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the security holders of the offeree issuer may have at law.

No
derogation
of rights

12. Section 129 of the said Act is repealed.

13. Section 130 of the said Act is repealed and the following substituted therefor:

130. A purchaser of a security to whom a prospectus was required to be sent or delivered but was not sent or delivered in compliance with subsection 70 (1) or a security holder to whom a take-over bid and take-over bid circular or an issuer bid and an issuer bid circular, or any notice of change or variation to any such bid or circular, were required to be delivered but were not delivered in compliance with section 94 or section 97 has a right of action for rescission or damages against the dealer or offeror who failed to comply with the applicable requirement.

Liability of
dealer or
offeror

14.—(1) Subsections 131 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) Every person or company in a special relationship with a reporting issuer who purchases or sells securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed is liable to compensate the seller or purchaser of the securities, as the case may be, for damages as a result of the trade unless,

Liability
where
material
fact or
change
undisclosed

- (a) the person or company in the special relationship with the reporting issuer proves that the person or company reasonably believed that the material fact or material change had been generally disclosed; or
- (b) the material fact or material change was known or ought reasonably to have been known to the seller or purchaser, as the case may be.

(2) Every,

Liability
for tipping

- (a) reporting issuer;

- (b) person or company in a special relationship with a reporting issuer; and
- (c) person or company that proposes,
 - (i) to make a take-over bid, as defined in Part XIX, for the securities of a reporting issuer,
 - (ii) to become a party to a reorganization, amalgamation, merger, arrangement or similar business combination with a reporting issuer, or
 - (iii) to acquire a substantial portion of the property of a reporting issuer,

and who informs another person or company of a material fact or material change with respect to the reporting issuer that has not been generally disclosed is liable to compensate for damages any person or company that thereafter sells securities of the reporting issuer to or purchases securities of the reporting issuer from the person or company that received the information unless,

- (d) the person or company who informed the other person or company proves that the informing person or company reasonably believed the material fact or material change had been generally disclosed;
- (e) the material fact or material change was known or ought reasonably to have been known to the seller or purchaser, as the case may be;
- (f) in the case of an action against a reporting issuer or a person in a special relationship with the reporting issuer, the information was given in the necessary course of business; or
- (g) in the case of an action against a person or company described in subclause (c) (i), (ii) or (iii), the information was given in the necessary course of business to effect the take-over bid, business combination or acquisition.

(2) Subsection 131 (4) of the said Act is repealed and the following substituted therefor:

(4) Every person or company who is an insider, affiliate or associate of a reporting issuer that,

- (a) sells or purchases the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed; or
- (b) communicates to another person, other than in the necessary course of business, knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed,

is accountable to the reporting issuer for any benefit or advantage received or receivable by the person or company as a result of the purchase, sale or communication, as the case may be, unless the person or company proves that the person or company reasonably believed that the material fact or material change had been generally disclosed.

(3) Subsection 131 (7) of the said Act is repealed and the following substituted therefor:

(7) For the purposes of this section, “a person or company in a special relationship with a reporting issuer” has the same meaning as in subsection 75 (5). Definition

(8) For the purposes of subsections (1) and (2), a security of the reporting issuer shall be deemed to include, Idem

- (a) a put, call, option or other right or obligation to purchase or sell securities of the reporting issuer; or
- (b) a security, the market price of which varies materially with the market price of the securities of the issuer. ▲

15.—(1) Section 139 of the said Act is amended by adding thereto the following paragraph:

- 18a. prescribing terms and conditions upon which a person or company may be designated as a recognized clearing agency. ▲

(2) The said section 139 is further amended by adding thereto the following paragraph:

- 28a. respecting any matter necessary or advisable to carry out effectively the intent and purpose of sections 75 and 131, including, without restricting the generality of the foregoing, exempting any class or classes of persons and companies, trades or securi-

ties from any of the requirements of section 75 and from liability under section 131 and prescribing standards for determining when a material fact or material change has been generally disclosed. ▲

(3) Paragraphs 32 and 33 of the said section 139 are repealed and the following substituted therefor:

32. respecting any other matter necessary or advisable to carry out effectively the intent and purpose of Parts XIX and XX, including, without restricting the generality of the foregoing, providing for exemptions in addition to those set out in subsections 92 (1) and (3), providing for exemptions from section 93, restricting any exemption set out in subsection 92 (1) or (3) or section 93, prescribing rules in addition to those set out in section 94 and varying any rule set out in that section and prescribing the form and content of any circular, report or other document required to be delivered or filed.

Commence-
ment

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

17. The short title of this Act is the *Securities Amendment Act, 1987.*

Bill 156

(Chapter 7
Statutes of Ontario, 1987)

An Act to amend the Securities Act

The Hon. M. Kwinter
Minister of Financial Institutions

<i>1st Reading</i>	November 24th, 1986
<i>2nd Reading</i>	February 4th, 1987
<i>3rd Reading</i>	February 11th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 156**1987****An Act to amend the Securities Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraphs:

2a. "clearing agency" means a person or company that acts as an intermediary in paying funds or delivering securities, or both, in connection with trades in securities and that provides centralized facilities for the clearing of trades in securities;

34a. "recognized clearing agency" means a person or company that is designated as a recognized clearing agency by the Commission.

2. Subsection 2 (2) of the said Act is repealed and the following substituted therefor:

(2) The Commission shall be composed of a Chairman and not more than ten or less than eight other members, appointed by the Lieutenant Governor in Council, two of whom may be designated as Vice-Chairmen. Appointments

3. Clause 18 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) the financial affairs of a recognized clearing agency, registrant or reporting issuer; and

4. The said Act is amended by adding thereto the following Part:

PART VIII-A

CLEARING AGENCIES

Recognition
of clearing
agencies

21a.—(1) Upon the application of a person or company carrying on or proposing to carry on the business of a clearing agency, the Commission may designate the person or company as a recognized clearing agency where the Commission is satisfied that to do so would be in the public interest and that the person or company can comply with the regulations and all terms and conditions imposed by the Commission with respect to the designation.

Commission's
powers

(2) The Commission, in designating a person or company as a recognized clearing agency, shall make the designation in writing and the designation may be made subject to such terms and conditions as the Commission may impose.

Idem

(3) The Commission, after giving a recognized clearing agency an opportunity to be heard, may suspend or cancel its designation as a recognized clearing agency or may impose terms and conditions upon the designation where in its opinion such action is in the public interest.

Idem

(4) The Commission, where it appears to it to be in the public interest, may make any decision with respect to any constating document, general agreement with its participants or members, by-law, rule, regulation, procedure or practice of a recognized clearing agency, including, without limiting the generality of the foregoing, suspending the operation of or requiring an amendment to any such constating document, general agreement, by-law, rule, regulation, procedure or practice.

Review of
decisions of
recognized
clearing
agency

(5) Any person or company directly affected by any direction, order or decision made under any by-law, rule, regulation, procedure or practice of a recognized clearing agency may apply to the Commission for a hearing and review thereof and section 8 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director.

5. Paragraph 17 of subsection 34 (1) of the said Act is repealed and the following substituted therefor:

17. A trade in a security to a person or company pursuant to a take-over bid or issuer bid made by that person or company.

6. Clause 71 (1) (k) of the said Act is repealed and the following substituted therefor:

- (k) the trade is made in a security to a person or company pursuant to a take-over bid or issuer bid made by that person or company.

7. Section 75 of the said Act is repealed and the following substituted therefor:

75.—(1) No person or company in a special relationship with a reporting issuer shall purchase or sell securities of the reporting issuer with the knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed. Trading where undisclosed change

(2) No reporting issuer and no person or company in a special relationship with a reporting issuer shall inform, other than in the necessary course of business, another person or company of a material fact or material change with respect to the reporting issuer before the material fact or material change has been generally disclosed. Tipping

(3) No person or company that proposes, Idem

- (a) to make a take-over bid, as defined in Part XIX, for the securities of a reporting issuer;
- (b) to become a party to a reorganization, amalgamation, merger, arrangement or similar business combination with a reporting issuer; or
- (c) to acquire a substantial portion of the property of a reporting issuer,

shall inform another person or company of a material fact or material change with respect to the reporting issuer before the material fact or material change has been generally disclosed except where the information is given in the necessary course of business to effect the take-over bid, business combination or acquisition.

(4) No person or company shall be found to have contravened subsection (1), (2) or (3) if the person or company proves that the person or company reasonably believed that the material fact or material change had been generally disclosed. Defence

(5) For the purposes of this section, “person or company in a special relationship with a reporting issuer” means, Definition

- (a) a person or company that is an insider, affiliate or associate of,
 - (i) the reporting issuer,
 - (ii) a person or company that is proposing to make a take-over bid, as defined in Part XIX, for the securities of the reporting issuer, or
 - (iii) a person or company that is proposing to become a party to a reorganization, amalgamation, merger or arrangement or similar business combination with the reporting issuer or to acquire a substantial portion of its property;
- (b) a person or company that is engaging in or proposes to engage in any business or professional activity with or on behalf of the reporting issuer or with or on behalf of a person or company described in subclause (a) (ii) or (iii);
- (c) a person who is a director, officer or employee of the reporting issuer or of a person or company described in subclause (a) (ii) or (iii) or clause (b);
- (d) a person or company that learned of the material fact or material change with respect to the reporting issuer while the person or company was a person or company described in clause (a), (b) or (c);
- (e) a person or company that learns of a material fact or material change with respect to the issuer from any other person or company described in this subsection, including a person or company described in this clause, and knows or ought reasonably to have known that the other person or company is a person or company in such a relationship.

Idem

(6) For the purpose of subsection (1), a security of the reporting issuer shall be deemed to include,

- (a) a put, call, option or other right or obligation to purchase or sell securities of the reporting issuer; or
- (b) a security, the market price of which varies materially with the market price of the securities of the issuer.

8. Part XIX of the said Act is repealed and the following substituted therefor:

PART XIX

TAKE-OVER BIDS AND ISSUER BIDS

88.—(1) In this Part,

Definitions

“business day” means a day other than a Saturday or a holiday;

“class of securities” includes a series of a class of securities;

“equity security” means any security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon the liquidation or winding up of the issuer, in its assets;

“formal bid” means,

- (a) a take-over bid or an issuer bid to which section 94 applies, or
- (b) a take-over bid that is exempted from sections 94 to 99 or an issuer bid that is exempted from sections 94, 95, 96, 97 and 99,
 - (i) by reason of an exemption under clause 92 (1) (a) or 92 (3) (e), if the offeror is required to deliver to every security holder whose last address as shown on the books of the offeree issuer is in Ontario a disclosure document of the type contemplated by subsection 127 (10), or
 - (ii) by reason of an exemption under clause 92 (1) (e) or 92 (3) (h), if the offeror is required to deliver disclosure material relating to the bid to holders of the class of securities subject to the bid;

“interested person” means, for the purposes of sections 100c and 100d,

- (a) an offeree issuer,
- (b) a security holder, director or officer of an offeree issuer,

- (c) an offeror,
- (d) the Director, and
- (e) any person or company not referred to in clauses (a) to (d) who in the opinion of the Commission or the Court, as the case may be, is a proper person to make an application under section 100c or 100d, as the case may be;

“issuer bid” means an offer to acquire or redeem securities of an issuer made by the issuer to any person or company who is in Ontario or to any security holder of the issuer whose last address as shown on the books of the issuer is in Ontario and includes a purchase, redemption or other acquisition of securities of the issuer by the issuer from any such person or company, but does not include an offer to acquire or redeem debt securities that are not convertible into securities other than debt securities;

“offer to acquire” includes,

- (a) an offer to purchase, or a solicitation of an offer to sell, securities,
- (b) an acceptance of an offer to sell securities, whether or not such offer to sell has been solicited,

or any combination thereof, and the person or company accepting an offer to sell shall be deemed to be making an offer to acquire to the person or company that made the offer to sell;

“offeree issuer” means an issuer whose securities are the subject of a take-over bid, an issuer bid or an offer to acquire;

“offeror” means a person or company who makes a take-over bid, an issuer bid or an offer to acquire and, for the purposes of section 100, includes a person or company who acquires a security, whether or not by way of a take-over bid, issuer bid or offer to acquire;

“offeror’s securities” means securities of an offeree issuer beneficially owned, or over which control or direction is exercised, on the date of an offer to acquire, by an offeror or any person or company acting jointly or in concert with the offeror;

“published market” means, as to any class of securities, any market on which such securities are traded if the prices at

which they have been traded on that market are regularly published in a *bona fide* newspaper or business or financial publication of general and regular paid circulation;

“take-over bid” means an offer to acquire outstanding voting or equity securities of a class made to any person or company who is in Ontario or to any security holder of the offeree issuer whose last address as shown on the books of the offeree issuer is in Ontario, where the securities subject to the offer to acquire, together with the offeror’s securities, constitute in the aggregate 20 per cent or more of the outstanding securities of that class of securities at the date of the offer to acquire.

(2) For the purposes of this Part,

Computation
of time,
expiry
of bid

- (a) a period of days shall be computed as commencing on the day next following the event which began the period and terminating at midnight on the last day of the period, except that if the last day of the period does not fall on a business day, the period terminates at midnight on the next business day; and
- (b) a take-over bid or an issuer bid expires at the later of,
 - (i) the end of the period, including any extension, during which securities may be deposited pursuant to the bid, and
 - (ii) the time at which the offeror becomes obligated by the terms of the bid to take-up or reject securities deposited thereunder.

(3) For the purposes of this Part,

Convertible
securities

- (a) a security shall be deemed to be convertible into a security of another class if, whether or not on conditions, it is or may be convertible into or exchangeable for, or if it carries the right or obligation to acquire, a security of the other class, whether of the same or another issuer; and
- (b) a security that is convertible into a security of another class shall be deemed to be convertible into a security or securities of each class into which the second-mentioned security may be converted, either directly or through securities of one or more other classes of securities that are themselves convertible.

Deemed
beneficial
ownership

89.—(1) For the purposes of this Part, in determining the beneficial ownership of securities of an offeror or of any person or company acting jointly or in concert with the offeror, at any given date, the offeror, person or company shall be deemed to have acquired and be the beneficial owner of a security, including an unissued security, if the offeror, person or company is the beneficial owner of any security convertible within sixty days following such date into such a security or has the right or obligation, whether or not on conditions, to acquire within such sixty days beneficial ownership of the security whether through the exercise of an option, warrant, right or subscription privilege or otherwise.

Calculation
of
holdings,
joint offers

(2) Where two or more offerors acting jointly or in concert make one or more offers to acquire securities of a class, the securities subject to any such offer or offers to acquire shall be deemed to be securities subject to the offer to acquire of each such offeror for the purpose of determining whether any such offeror is making a take-over bid.

Unissued
securities
deemed
outstanding

(3) Where an offeror or any person or company acting jointly or in concert with the offeror is deemed by reason of subsection (1) to be the beneficial owner of unissued securities, the securities shall be deemed to be outstanding for the purpose of calculating the number of outstanding securities of that class in respect of that offeror's offer to acquire.

Acting jointly
or in concert

90.—(1) For the purposes of this Part, it is a question of fact as to whether a person or company is acting jointly or in concert with an offeror and, without limiting the generality of the foregoing, the following shall be presumed to be acting jointly or in concert with an offeror:

1. Every person or company who, as a result of any agreement, commitment or understanding, whether formal or informal, with the offeror or with any other person or company acting jointly or in concert with the offeror, acquires or offers to acquire securities of the issuer of the same class as those subject to the offer to acquire.
2. Every person or company who, as a result of any agreement, commitment or understanding, whether formal or informal, with the offeror or with any other person or company acting jointly or in concert with the offeror, intends to exercise jointly or in concert with the offeror or with any other person or company acting jointly or in concert with the offeror any voting rights attaching to any securities of the offeree issuer.

3. Every associate or affiliate of the offeror.

(2) Notwithstanding subsection (1), a registered dealer acting solely in an agency capacity for the offeror in connection with a take-over bid or an issuer bid and not executing principal transactions for its own account in the class of securities subject to the offer to acquire or performing services beyond customary dealer's functions shall not be presumed solely by reason of such agency relationship to be acting jointly or in concert with the offeror in connection with the bid.

Limitation

91. For the purposes of this Part, a reference to an offer to acquire or to the acquisition or ownership of securities or to control or direction over securities shall be construed to include a direct or indirect offer to acquire or the direct or indirect acquisition or ownership of securities, or the direct or indirect control or direction over securities, as the case may be.

Application to direct and indirect offers, etc.

92.—(1) Subject to the regulations, a take-over bid is exempt from sections 94 to 99 if,

Exempted take-over bids

(a) the bid is made through the facilities of a stock exchange recognized by the Commission for the purposes of this clause;

(b) the bid is for not more than 5 per cent of the outstanding securities of a class of securities of the issuer and,

(i) the aggregate number of securities acquired by the offeror and any person or company acting jointly or in concert with the offeror within any period of twelve months in reliance upon the exemption provided by this clause does not, when aggregated with acquisitions otherwise made by the offeror and any person or company acting jointly or in concert with the offeror within the same twelve month period, constitute in excess of 5 per cent of the outstanding securities of that class of the issuer at the commencement of the twelve month period, and

(ii) if there is a published market for the securities acquired, the value of the consideration paid for any of the securities acquired is not in excess of the market price at the date of acquisition determined in accordance with the

regulations plus reasonable brokerage fees or commissions actually paid;

(c) all of the following conditions apply,

(i) purchases are made from not more than five persons or companies in the aggregate, including persons or companies outside of Ontario,

(ii) the bid is not made generally to security holders of the class of securities that is the subject of the bid, and

(iii) the value of the consideration paid for any of the securities, including brokerage fees or commissions, does not exceed 115 per cent of the market price of securities of that class at the date of the bid determined in accordance with the regulations;

(d) the offeree issuer is not a reporting issuer, there is not a published market in respect of the securities that are the subject of the bid, and the number of holders of securities of that class is not more than fifty, exclusive of holders who are in the employment of the offeree issuer or an affiliate of the offeree issuer, and exclusive of holders who were formerly in the employment of the offeree issuer or an affiliate of the offeree issuer and who while in that employment were, and have continued after that employment to be, security holders of the offeree issuer;

(e) the number of holders, whose last address as shown on the books of the offeree issuer is in Ontario, of securities of the class subject to the bid is fewer than fifty and the securities held by such holders constitute, in the aggregate, less than 2 per cent of the outstanding securities of that class, the bid is made in compliance with the laws of a jurisdiction that is recognized for the purposes of this clause by the Commission, and all material relating to the bid that is sent by the offeror to holders of securities of the class that is subject to the bid is concurrently sent to all holders of such securities whose last address as shown on the books of the offeree issuer is in Ontario and filed; or

(f) it is exempted by the regulations.

(2) For the purposes of clause (1) (c), where an offeror makes an offer to acquire securities from a person or company and the offeror knows or ought to know after reasonable enquiry that,

Determina-
tion
of number of
security
holders

- (a) one or more other persons or companies on whose behalf that person or company is acting as nominee, agent, trustee, executor, administrator or other legal representative has a direct beneficial interest in those securities, then each of such others shall be included in the determination of the number of persons and companies to whom the offer to acquire has been made, but, where an *inter vivos* trust has been established by a single settlor or where an estate has not vested in all persons beneficially entitled thereto, the trust or estate shall be considered a single security holder in such determination; or
- (b) the person or company acquired the securities in order that the offeror might make use of the exemption provided by clause (1) (c), then each person or company from whom those securities were acquired shall be included in the determination of the number of persons and companies to whom the offer to acquire has been made.

(3) Subject to the regulations, an issuer bid is exempt from sections 94, 95, 96, 97 and 99 if,

Exempted
issuer bids

- (a) the securities are purchased, redeemed or otherwise acquired in accordance with terms and conditions attaching thereto that permit the purchase, redemption or acquisition of the securities by the issuer without the prior agreement of the owners of the securities, or where the securities are acquired to meet sinking fund or purchase fund requirements;
- (b) the purchase, redemption or other acquisition is required by the instrument creating or governing the class of securities or by the statute under which the issuer was incorporated, organized or continued;
- (c) the securities carry with them or are accompanied by a right of the owner of the securities to require the issuer to redeem or repurchase the securities and the securities are acquired pursuant to the exercise of such right;

- (d) the securities are acquired from a current or former employee of the issuer or of an affiliate of the issuer, and if there is a published market in respect of the securities,
 - (i) the value of the consideration paid for any of the securities acquired does not exceed the market price of the securities at the date of the acquisition determined in accordance with the regulations, and
 - (ii) the aggregate number or, in the case of convertible debt securities, the aggregate principal amount of securities acquired by the issuer within a period of twelve months in reliance on the exemption provided by this clause does not exceed 5 per cent of the securities of that class issued and outstanding at the commencement of the period;
- (e) the bid is made through the facilities of a stock exchange recognized by the Commission for the purpose of this clause;
- (f) following the publication of a notice of intention in the form and manner prescribed by the regulations, the issuer purchases securities in the normal course in the open market, including through the facilities of a stock exchange, if the aggregate number, or, in the case of convertible debt securities, the aggregate principal amount, of securities acquired by the issuer within a period of twelve months in reliance on the exemption provided by this clause does not exceed 5 per cent of the securities of that class issued and outstanding at the commencement of the period;
- (g) the issuer is not a reporting issuer, there is not a published market in respect of the securities that are the subject of the bid and the number of holders of securities of the issuer is not more than fifty, exclusive of holders who are in the employment of the issuer or an affiliate of the issuer, and exclusive of holders who were formerly in the employment of the issuer or an affiliate of the issuer and who while in that employment were, and have continued after the employment to be, security holders of the issuer;

- (h) the number of holders, whose last address as shown on the books of the issuer is in Ontario, of securities of the class subject to the bid is fewer than fifty and the securities held by such holders constitute, in the aggregate, less than 2 per cent of the outstanding securities of that class, the bid is made in compliance with the laws of a jurisdiction that is recognized for the purposes of this clause by the Commission, and all material relating to the bid that is sent by the offeror to holders of securities of the class that is subject to the bid is concurrently sent to all holders of such securities whose last address as shown on the books of the issuer is in Ontario and filed; or
- (i) it is exempted by the regulations.

(4) A bid that is made in reliance upon any exemption in this section through the facilities of a stock exchange shall be made in accordance with the by-laws, regulations and policies of the exchange.

Stock
exchange
requirements

93.—(1) In this section, “offeror” means,

Definition

- (a) an offeror making a formal bid other than a bid referred to in clause 92 (1) (e) or 92 (3) (h);
- (b) a person or company acting jointly or in concert with an offeror referred to in clause (a);
- (c) a security holder of an offeror referred to in clause (a) who, as regards the offeror, is a person or company or a member of a combination of persons or companies referred to in subparagraph iii of paragraph 11 of subsection 1 (1) or an associate or affiliate of such security holder.

(2) An offeror shall not offer to acquire or make, or enter into, any agreement, commitment or understanding to acquire beneficial ownership of any securities of the class that are subject to a take-over bid otherwise than pursuant to the bid on and from the day of the announcement of the offeror's intention to make the bid until its expiry.

Restrictions
on
acquisitions
during
take-over
bid

(3) Notwithstanding subsection (2), an offeror making a take-over bid may purchase, through the facilities of a stock exchange recognized by the Commission for the purpose of clause 92 (1) (a), securities of the class that are subject to the bid and securities convertible into securities of that class com-

Permitted
purchases
during
take-over bid

mencing on the third business day following the date of the bid until the expiry of the bid, if,

- (a) the intention to make such purchases is stated in the take-over bid circular;
- (b) the aggregate number of securities acquired under this subsection does not constitute in excess of 5 per cent of the outstanding securities of that class as at the date of the bid; and
- (c) the offeror issues and files a press release forthwith after the close of business of the exchange on each day on which securities have been purchased under this subsection disclosing the information prescribed by the regulations.

Restrictions
on
acquisition
during issuer
bid

(4) An offeror making an issuer bid shall not offer to acquire, or make or enter into any agreement, commitment or understanding to acquire, beneficial ownership of any securities of the class that are subject to the bid otherwise than pursuant to the bid on and from the day of the announcement of the offeror's intention to make the bid until the bid's expiry, but this subsection does not apply so as to prevent the offeror from purchasing, redeeming or otherwise acquiring any such securities during such period in reliance on an exemption under clause 92 (3) (a), (b) or (c).

Integration
with pre-bid
private
transactions

(5) Where a take-over bid that is a formal bid is made by an offeror and, within the period of ninety days immediately preceding the bid, the offeror acquired beneficial ownership of securities of the class subject to the bid pursuant to a transaction not generally available on identical terms to holders of that class of securities,

- (a) the offeror shall offer consideration for securities deposited under the bid at least equal to the highest consideration that was paid on a per security basis under any of such prior transactions or the offeror shall offer at least the cash equivalent of such consideration; and
- (b) the offeror shall offer to acquire under the bid that percentage of securities of the class subject to the bid that is at least equal to the highest percentage that the number of securities acquired from a seller in such a prior transaction was of the total number of securities of that class beneficially owned by such seller at the time of the prior transaction.

(6) An offeror shall not acquire beneficial ownership of securities of the class that was subject to the bid by way of a transaction that is not generally available on identical terms to holders of that class of securities during the period beginning with the expiry of the bid and ending at the end of the twentieth business day thereafter, and whether or not any securities are taken up under the bid.

Restriction
on
post-bid
acquisition

(7) Subsections (5) and (6) do not apply to trades effected in the normal course on a published market, so long as,

Exceptions,
normal
course
trades

- (a) any broker acting for the purchaser or seller does not perform services beyond the customary broker's function and does not receive more than reasonable fees or commissions;
- (b) the purchaser or any person or company acting for the purchaser does not solicit or arrange for the solicitation of offers to sell securities of the class subject to the bid; and
- (c) the seller or any person or company acting for the seller does not solicit or arrange for the solicitation of offers to buy securities of the class subject to the bid.

(8) An offeror shall not, except pursuant to the bid, sell or make or enter into any agreement, commitment or understanding to sell any securities of the class subject to the bid on and from the day of the announcement of the offeror's intention to make the bid until its expiry.

Sales during
bid
prohibited

(9) Notwithstanding subsection (8), an offeror, before the expiry of a bid, may make or enter into an arrangement, commitment or understanding to sell securities that may be taken up by the offeror pursuant to a bid, after the expiry of the bid, if the intention to sell is disclosed in the take-over bid circular or issuer bid circular, as the case may be.

Exception

94. Subject to the regulations, the following rules apply to every take-over bid and issuer bid:

General
provisions

1. The bid shall be made to all holders of securities of the class that is subject to the bid who are in Ontario, and delivered by the offeror to all holders, whose last address as shown on the books of the offeree issuer is in Ontario, of securities of that class and of securities that, before the expiry of the bid, are convertible into securities of that class.

Delivery
of bid

- | | | |
|---------------------------|----|--|
| Minimum deposit period | 2. | The offeror shall allow at least twenty-one days from the date of the bid during which securities may be deposited pursuant to the bid. |
| When taking up prohibited | 3. | No securities deposited pursuant to the bid shall be taken up by the offeror until the expiration of twenty-one days from the date of the bid. |
| Withdrawal | 4. | Securities deposited pursuant to the bid may be withdrawn by or on behalf of a depositing security holder, <ul style="list-style-type: none">i. at any time before the expiration of twenty-one days from the date of the bid,ii. at any time before the expiration of ten days from the date of a notice of change or variation under section 97, andiii. where the securities have not been taken up and paid for by the offeror, after forty-five days from the date of the bid. |
| Exception | 5. | The right of withdrawal conferred by subparagraph ii of paragraph 4 does not apply, <ul style="list-style-type: none">i. where the securities have been taken up by the offeror at the date of the notice,ii. where a variation in the terms of a bid consists solely of an increase in the consideration offered for the securities subject to the bid and the time for deposit is not extended for a period greater than that required by subsection 97 (5), oriii. in the circumstances described in subsection 97 (6). |
| Notice of withdrawal | 6. | Notice of withdrawal of any securities under paragraph 4 shall be made by or on behalf of the depositing security holder by a method that provides the depositary designated under the bid with a written or printed copy and, to be effective, the notice must be actually received by the depositary and, where notice is given in accordance with this paragraph, the offeror shall return the securities to the depositing security holder. |

7. Where the bid is made for less than all of the class of securities subject to the bid and where a greater number of securities is deposited pursuant thereto than the offeror is bound or willing to acquire under the bid, the securities shall be taken up and paid for by the offeror, as nearly as may be *pro rata*, disregarding fractions, according to the number of securities deposited by each depositing security holder. *Pro rata take-up*
 8. Where an offeror purchases securities as permitted by subsection 93 (3), the securities so purchased shall be counted in the determination of whether a condition as to the minimum number of securities to be deposited in the bid has been fulfilled, but shall not reduce the number of securities the offeror is bound under the bid to take up. *Effect of market purchases*
 9. Subject to paragraphs 10 and 11, the offeror shall take up and pay for securities deposited under the bid, where all the terms and conditions of the bid have been complied with or waived, not later than ten days after the expiry of the bid. *When securities must be taken up and paid for*
 10. Any securities that are taken up by the offeror under the bid shall be paid for by the offeror as soon as possible, and in any event not more than three days, after the taking up of the securities. *Idem*
 11. Any securities deposited pursuant to the bid subsequent to the date on which the offeror first takes up securities deposited under the bid shall be taken up and paid for by the offeror within ten days of the deposit of the securities. *Idem*
 12. A bid may not be extended by the offeror, where all the terms and conditions thereof have been complied with except those waived by the offeror, unless the offeror first takes up and pays for all securities deposited thereunder and not withdrawn. *Extension restricted*
 13. Where all the terms and conditions of the bid have been complied with or waived, the offeror shall forthwith issue a notice by press release to that effect, which press release shall disclose the approximate number of securities deposited and the approximate number that will be taken up. *Press release*
- 95.** Where a take-over bid or issuer bid provides that the consideration for the securities deposited pursuant to the bid is to be paid in cash or partly in cash, the offeror shall make *Financing of bid*

adequate arrangements prior to the bid to ensure that the required funds are available to effect payment in full for all securities that the offeror has offered to acquire.

Identical
consideration

96.—(1) Subject to the regulations, where a take-over bid or issuer bid is made, all holders of the same class of securities shall be offered identical consideration.

Collateral
benefit

(2) If an offeror makes or intends to make a take-over bid or issuer bid, neither the offeror nor any person or company acting jointly or in concert with the offeror shall enter into any collateral agreement, commitment or understanding with any holder or beneficial owner of securities of the offeree issuer that has the effect of providing to the holder or owner a consideration of greater value than that offered to the other holders of the same class of securities.

Increasing
consideration

(3) Where a variation in the terms of a take-over bid or issuer bid before the expiry of the bid increases the value of the consideration offered for the securities subject to the bid, the offeror shall pay such increased consideration to each person or company whose securities are taken up pursuant to the bid, whether or not such securities were taken up by the offeror before the variation.

Offeror's
circular

97.—(1) An offeror shall deliver, with or as part of a take-over bid or issuer bid, a take-over bid circular or issuer bid circular, as the case may be.

Notice of
change
in
information

(2) Where, before the expiry of a take-over bid or issuer bid or after the expiry of the bid but before the expiry of all rights to withdraw the relevant securities, a change has occurred in the information contained in a take-over bid circular or issuer bid circular or in any notice of change or notice of variation that would reasonably be expected to affect the decision of the holders of the securities of the offeree issuer to accept or reject the bid, a notice of the change shall be delivered to every person or company to whom the circular was required to be delivered and whose securities were not taken up at the date of the occurrence of the change.

Idem

(3) Subsection (2) does not apply to a change that is not within the control of the offeror or of an affiliate of the offeror unless it is a change in a material fact relating to the securities being offered in exchange for securities of the offeree issuer.

Variation in
terms of bid

(4) Where there is a variation in the terms of a take-over bid or issuer bid, including any extension of the period during which securities may be deposited thereunder and whether or

not the variation results from the exercise of any right contained in the bid, a notice of the variation shall be delivered to every person or company to whom the take-over bid circular or issuer bid circular was required to be delivered and whose securities were not taken up at the date of the variation.

(5) Subject to subsection (6), where there is a variation in the terms of a take-over bid or issuer bid, the period during which securities may be deposited pursuant to the bid shall not expire before ten days after the notice of variation has been delivered. Idem

(6) Subsection (5) does not apply to a variation in the terms of a bid consisting solely of the waiver of a condition in the bid where the consideration offered for the securities that are subject to the bid consists solely of cash. Idem

(7) A take-over bid circular, issuer bid circular, notice of change and notice of variation shall be in the form and shall contain the information required by this Part and the regulations. Content

98.—(1) Where a take-over bid has been made, a directors' circular shall be prepared and delivered by the board of directors of an offeree issuer to every person and company to whom a take-over bid must be delivered under paragraph 1 of section 94, not later than ten days after the date of the bid. Directors' circular

(2) The board of directors shall include in a directors' circular either a recommendation to accept or to reject a take-over bid and the reasons for their recommendation, or a statement that they are unable to make or are not making a recommendation and if no recommendation is made, the reasons for not making a recommendation. Recommendation by board

(3) An individual director or officer may recommend acceptance or rejection of a take-over bid if the director or officer delivers with the recommendation a circular prepared in accordance with the regulations. Individual officer's or director's circular

(4) Where a board of directors is considering recommending acceptance or rejection of a take-over bid, it shall, at the time of sending or delivering a directors' circular, advise the security holders of this fact and may advise them not to tender their securities until further communication is received from the directors. Advising of consideration

(5) Where subsection (4) applies, the board of directors shall deliver the recommendation or the decision not to make Advising of decision of directors

a recommendation at least seven days before the scheduled expiry of the period during which securities may be deposited under the bid.

Notice of
change

(6) Where, before the expiry of a take-over bid or after the expiry of the bid but before the expiry of all rights to withdraw the securities that have been deposited under the bid,

(a) a change has occurred in the information contained in a directors' circular or in any notice of change to a directors' circular that would reasonably be expected to affect the decision of the holders of the securities to accept or reject the bid, the board of directors of the offeree issuer shall forthwith deliver a notice of the change to every person or company to whom the circular was required to be sent disclosing the nature and substance of the change; or

(b) a change has occurred in the information contained in an individual director's or officer's circular or any notice of change thereto that would reasonably be expected to affect the decision of the holders of the securities to accept or reject the bid, other than a change that is not within the control of the individual director or officer, as the case may be, the individual director or officer, as the case may be, shall forthwith deliver a notice of change in relation thereto to the board of directors.

Circulation of
individual
circulars and
notices

(7) Where an individual director or officer submits a circular under subsection (3) or a notice of change under clause (6) (b) to the board of directors, the board, at the offeree issuer's expense, shall deliver a copy of the circular or notice to the persons and companies referred to in subsection (1).

Content

(8) A directors' circular, director's or officer's circular and a notice of change shall be in the form and contain the information required by this Part and the regulations.

Delivery to
offeree issuer

99.—(1) A take-over bid and any notice of change or variation shall be filed and shall be delivered to the offeree issuer at its principal office and an issuer bid and any notice of change or variation shall be filed on the day such bid or notice is delivered to holders of securities of the offeree issuer, or as soon as practicable thereafter.

Delivery to
offeree issuer
and
Commission

(2) Every directors' circular and every individual director's or officer's circular or any notice of change in relation thereto that is delivered to security holders of an offeree issuer shall be filed and shall be delivered to the offeror at its principal

office on the day the directors' circular or individual director's or officer's circular or the notice of change is delivered to the holders of securities of the offeree issuer, or as soon as practicable thereafter.

(3) A take-over bid or issuer bid, a take-over bid circular, an issuer bid circular, a directors' circular, an individual director's or officer's circular and every notice of change or variation in any such bid or circular shall be mailed by prepaid first class mail or delivered by personal delivery or in such other manner as the Director may approve to the intended recipient and any bid, circular or notice so mailed or delivered shall be deemed to have been delivered and such bid, circular or notice shall be deemed conclusively for the purposes of sections 94, 97 and 98 and this section to have been dated as of the date on which it was so mailed or delivered to all or substantially all of the persons and companies entitled to receive it.

Delivery and date of bid, etc.

100.—(1) Every offeror that acquires beneficial ownership of, or the power to exercise control or direction over, or securities convertible into, voting or equity securities of any class of a reporting issuer that, together with such offeror's securities of that class, would constitute 10 per cent or more of the outstanding securities of that class,

Securities, reports of acquisitions

- (a) shall issue and file forthwith a press release containing the information prescribed by the regulations; and
- (b) within two business days, shall file a report containing the same information as is contained in the press release issued under clause (a).

(2) Where an offeror is required to file a report under subsection (1) or a further report under this subsection and the offeror or any person acting jointly or in concert with the offeror acquires beneficial ownership of, or the power to exercise control or direction over, or securities convertible into, an additional 2 per cent or more of the outstanding securities of the class or there is a change in any other material fact in such a report, the offeror,

Change in material facts

- (a) shall issue and file forthwith a press release containing the information prescribed by the regulations; and
- (b) within two business days, shall file a report containing the same information as is contained in the press release issued under clause (a).

Restrictions
on
acquisitions

(3) During the period commencing on the occurrence of an event in respect of which a report or further report is required to be filed under this section and terminating on the expiry of one business day from the date that the report or further report is filed, neither the offeror nor any person or company acting jointly or in concert with the offeror shall acquire or offer to acquire beneficial ownership of any securities of the class in respect of which the report or further report is required to be filed or any securities convertible into securities of that class.

Exception

(4) Subsection (3) does not apply to an offeror that is the beneficial owner of, or has the power to exercise control or direction over, securities that, together with such offeror's securities of that class, constitute 20 per cent or more of the outstanding securities of that class.

Press release
re
acquisitions
by person
other
than offeror
during bid

100a.—(1) Where, after a formal bid has been made for voting or equity securities of an offeree issuer that is a reporting issuer and before the expiry of the bid, an offeror, other than the person or company making the bid, acquires beneficial ownership of, or the power to exercise control or direction over, securities of the class subject to the bid which, when added to such offeror's securities of that class, constitute 5 per cent or more of the outstanding securities of that class, the offeror shall, not later than the opening of trading on the next business day, issue a press release containing the information prescribed by the regulations and, forthwith, the offeror shall file a copy of the press release.

Further press
releases

(2) Where an offeror that has filed a press release under subsection (1) or a further press release under this subsection or any person or company acting jointly or in concert with the offeror acquires beneficial ownership of, or control or direction over, securities of the class subject to the bid which, when added to the securities of that class acquired after the filing of the press release by the offeror and any person or company acting jointly or in concert with the offeror, aggregates an additional 2 per cent or more of the class of outstanding securities, the offeror shall, not later than the opening of trading on the next business day, issue a further press release containing the information prescribed by the regulations and, forthwith, the offeror shall file a copy of the press release.

No
duplication
of reports

100b. Where the facts required to be reported or in respect of which a press release is required to be filed under sections 100 and 100a are identical, a report or press release is required only under the provision requiring the earlier report or press release, as the case may be.

100c.—(1) Where, on the application of an interested person, it appears to the Commission that a person or company has not complied or is not complying with this Part or the regulations related to this Part, it may issue, subject to such terms and conditions as it may impose, an order,

Applications
to the
Commission

- (a) restraining the distribution of any document used or issued in connection with a take-over bid or issuer bid;
- (b) requiring an amendment to or variation of any document used or issued in connection with a take-over bid or issuer bid and requiring the distribution of any amended, varied or corrected document; and
- (c) directing any person or company to comply with this Part or the regulations related to this Part or restraining any person or company from contravening this Part or the regulations related to this Part and directing the directors and senior officers of the person or company to cause the person or company to comply with or to cease contravening this Part or the regulations related to this Part.

(2) Upon an application by any interested person, the Commission may, subject to such terms and conditions as it may impose,

Idem

- (a) decide for the purposes of subsection 96 (2) that an agreement, commitment or understanding with a selling security holder is made for reasons other than to increase the value of the consideration paid to the selling security holder for the securities of the selling security holder and that the agreement, commitment or understanding may be entered into notwithstanding that subsection;
- (b) vary any time period set out in this Part and the regulations related to this Part; and
- (c) exempt any person or company from any of the requirements of this Part or the regulations related to this Part where the Commission is satisfied that to do so would not be prejudicial to the public interest.

100d.—(1) An interested person may apply to the High Court for an order under this section.

Applications
to
the High
Court

Idem

(2) Where, on an application under subsection (1), the judge hearing the application is satisfied that a person or company has not complied with this Part or the regulations related to this Part, the judge may make such interim or final order as the judge thinks fit, including, without limiting the generality of the foregoing,

- (a) an order compensating any interested person who is a party to the application for damages suffered as a result of a contravention of this Part or the regulations related to this Part;
- (b) an order rescinding a transaction with any interested person, including the issue of a security or a purchase and sale of a security;
- (c) an order requiring any person or company to dispose of any securities acquired pursuant to or in connection with a take-over bid or an issuer bid;
- (d) an order prohibiting any person or company from exercising any or all of the voting rights attaching to any securities; and
- (e) an order requiring the trial of an issue.

Transition

100e. This Part and section 129 and the regulations related thereto, as they read immediately before the coming into force of this section, shall continue to apply in respect of every take-over bid and issuer bid commenced before the coming into force of this section.

9. Section 103 of the said Act is repealed.

10.—(1) Subsection 118 (1) of the said Act is amended by striking out “and on summary conviction is liable, in the case of a person, other than an individual, or company, to a fine of not more than \$25,000 and, in the case of an individual, to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both” in the twenty-first, twenty-second, twenty-third, twenty-fourth and twenty-fifth lines and inserting in lieu thereof “and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than two years, or to both”.

(2) Subsection 118 (3) of the said Act is repealed and the following substituted therefor:

Directors
and
officers

(3) Where a company or a person other than an individual is guilty of an offence under subsection (1), every director or

officer of such company or person who authorized, permitted, or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than two years, or to both.

(4) Where a person or company has contravened subsection 75 (1), (2) or (3) and the person or company has made a profit by reason of the contravention, the fine to which the person or company is liable on conviction shall be not less than the profit made by the person or company by reason of the contravention and not more than the greater of,

Fine for
contravention
of subs. 75
(1, 2 or 3)

(a) \$1,000,000; and

(b) an amount equal to triple the profit made by such person or company by reason of the contravention,

and subsection (1) does not apply in such circumstances.

(5) For the purposes of subsection (4), "profit" means,

Definition

(a) if the accused purchased securities in contravention of subsection 75 (1), the average market price of the security in the twenty trading days following general disclosure of the material fact or material change less the amount that the accused paid for the security;

(b) if the accused sold securities in contravention of subsection 75 (1), the amount that the accused received for the security less the average market price of the security in the twenty trading days following general disclosure of the material fact or material change;

(c) if the accused informed another person or company of a material fact or material change in contravention of subsection 75 (2) or (3) and received any direct or indirect consideration for providing such information, the value of the consideration received.

11.—(1) Subsections 127 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

(1) Where a take-over bid circular sent to the security holders of an offeree issuer as required by Part XIX or any notice of change or variation in respect thereof contains a misrepresentation, every such security holder shall be deemed to have

Liability for
misrepresentation
in circular

relied on the misrepresentation and may elect to exercise a right of action for rescission or damages against the offeror or a right of action for damages against,

- (a) every person who at the time the circular or notice, as the case may be, was signed was a director of the offeror;
- (b) every person or company whose consent in respect of the circular or notice, as the case may be, has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by the person or company; and
- (c) each person who signed a certificate in the circular or notice, as the case may be, other than the persons included in clause (a).

Idem

(2) Where a directors' circular or a director's or officer's circular delivered to the security holders of an offeree issuer as required by Part XIX or any notice of change or variation in respect thereof contains a misrepresentation, every such security holder shall be deemed to have relied on the misrepresentation and has a right of action for damages against every director or officer who signed the circular or notice that contained the misrepresentation.

Idem

(3) Subsection (1) applies with necessary modifications where an issuer bid circular or any notice of change or variation in respect thereof contains a misrepresentation.

Defence

(4) No person or company is liable under subsection (1), (2) or (3) if the person or company proves that the security holder had knowledge of the misrepresentation.

(2) Subsections 127 (10) and (11) of the said Act are repealed and the following substituted therefor:

Deemed
take-over
bid circular
or issuer bid
circular

(10) Where the offeror,

- (a) in a take-over bid exempted from the provisions of Part XIX by clause 92 (1) (a); or
- (b) in an issuer bid exempted from the provisions of Part XIX by clause 92 (3) (e),

is required, by the by-laws, regulations or policies of the stock exchange through the facilities of which the take-over bid or issuer bid is made, to file with it or to deliver to security hold-

ers of the offeree issuer a disclosure document, the disclosure document shall be deemed, for the purposes of this section, to be a take-over bid circular or issuer bid circular, as the case may be, delivered to the security holders as required by Part XIX.

(11) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the security holders of the offeree issuer may have at law.

No
derogation
of rights

12. Section 129 of the said Act is repealed.

13. Section 130 of the said Act is repealed and the following substituted therefor:

130. A purchaser of a security to whom a prospectus was required to be sent or delivered but was not sent or delivered in compliance with subsection 70 (1) or a security holder to whom a take-over bid and take-over bid circular or an issuer bid and an issuer bid circular, or any notice of change or variation to any such bid or circular, were required to be delivered but were not delivered in compliance with section 94 or section 97 has a right of action for rescission or damages against the dealer or offeror who failed to comply with the applicable requirement.

Liability of
dealer or
offeror

14.—(1) Subsections 131 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) Every person or company in a special relationship with a reporting issuer who purchases or sells securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed is liable to compensate the seller or purchaser of the securities, as the case may be, for damages as a result of the trade unless,

Liability
where
material
fact or
change
undisclosed

- (a) the person or company in the special relationship with the reporting issuer proves that the person or company reasonably believed that the material fact or material change had been generally disclosed; or
- (b) the material fact or material change was known or ought reasonably to have been known to the seller or purchaser, as the case may be.

(2) Every,

Liability
for tipping

- (a) reporting issuer;

- (b) person or company in a special relationship with a reporting issuer; and
- (c) person or company that proposes,
 - (i) to make a take-over bid, as defined in Part XIX, for the securities of a reporting issuer,
 - (ii) to become a party to a reorganization, amalgamation, merger, arrangement or similar business combination with a reporting issuer, or
 - (iii) to acquire a substantial portion of the property of a reporting issuer,

and who informs another person or company of a material fact or material change with respect to the reporting issuer that has not been generally disclosed is liable to compensate for damages any person or company that thereafter sells securities of the reporting issuer to or purchases securities of the reporting issuer from the person or company that received the information unless,

- (d) the person or company who informed the other person or company proves that the informing person or company reasonably believed the material fact or material change had been generally disclosed;
- (e) the material fact or material change was known or ought reasonably to have been known to the seller or purchaser, as the case may be;
- (f) in the case of an action against a reporting issuer or a person in a special relationship with the reporting issuer, the information was given in the necessary course of business; or
- (g) in the case of an action against a person or company described in subclause (c) (i), (ii) or (iii), the information was given in the necessary course of business to effect the take-over bid, business combination or acquisition.

(2) Subsection 131 (4) of the said Act is repealed and the following substituted therefor:

(4) Every person or company who is an insider, affiliate or associate of a reporting issuer that,

- (a) sells or purchases the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed; or
- (b) communicates to another person, other than in the necessary course of business, knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed,

is accountable to the reporting issuer for any benefit or advantage received or receivable by the person or company as a result of the purchase, sale or communication, as the case may be, unless the person or company proves that the person or company reasonably believed that the material fact or material change had been generally disclosed.

(3) Subsection 131 (7) of the said Act is repealed and the following substituted therefor:

(7) For the purposes of this section, "a person or company in a special relationship with a reporting issuer" has the same meaning as in subsection 75 (5). Definition

(8) For the purposes of subsections (1) and (2), a security of the reporting issuer shall be deemed to include, Idem

- (a) a put, call, option or other right or obligation to purchase or sell securities of the reporting issuer; or
- (b) a security, the market price of which varies materially with the market price of the securities of the issuer.

15.—(1) Section 139 of the said Act is amended by adding thereto the following paragraph:

- 18a. prescribing terms and conditions upon which a person or company may be designated as a recognized clearing agency.

(2) The said section 139 is further amended by adding thereto the following paragraph:

- 28a. respecting any matter necessary or advisable to carry out effectively the intent and purpose of sections 75 and 131, including, without restricting the generality of the foregoing, exempting any class or classes of persons and companies, trades or securi-

ties from any of the requirements of section 75 and from liability under section 131 and prescribing standards for determining when a material fact or material change has been generally disclosed.

(3) Paragraphs 32 and 33 of the said section 139 are repealed and the following substituted therefor:

32. respecting any other matter necessary or advisable to carry out effectively the intent and purpose of Parts XIX and XX, including, without restricting the generality of the foregoing, providing for exemptions in addition to those set out in subsections 92 (1) and (3), providing for exemptions from section 93, restricting any exemption set out in subsection 92 (1) or (3) or section 93, prescribing rules in addition to those set out in section 94 and varying any rule set out in that section and prescribing the form and content of any circular, report or other document required to be delivered or filed.

Commence-
ment

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

17. The short title of this Act is the *Securities Amendment Act, 1987*.

Bill 157

An Act to amend the Pension Benefits Act

Mr. Gordon

1st Reading November 25th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill amends the *Pension Benefits Act* to ensure that the Pension Commission of Ontario is represented equally by representatives of the points of view of labour, business and government.

It also amends the Act to provide that an employer cannot remove any surplus from a pension plan or decrease payments into a plan because of the existence of a surplus.

Bill 157

1986

An Act to amend the Pension Benefits Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(4) The Lieutenant Governor in Council shall appoint members to the Commission in such a way that the Commission is represented to the greatest extent possible equally by members representing the points of view of labour unions, of employers who maintain pension plans and of government.

Tripartite
representation

2. The said Act is amended by adding thereto the following section:

23a.—(1) The assets and earnings of a pension plan shall be deemed to be held for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan and no part of those assets or earnings shall be paid to the benefit of the employer either during the term of the pension plan or upon its termination or winding up.

Assets of
plan to
benefit
members
only

(2) An employer is not relieved of the obligation to pay money into a pension plan by reason only that the assets and earnings of the pension plan exceed its anticipated liabilities, unless the terms of the pension plan specifically provide that this subsection does not apply.

Contributions
to continue,
notwith-
standing
surplus

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Pension Benefits Amendment Act, 1986*.

Short title

Bill 158

An Act to continue The Canadian Insurance Exchange

The Hon. M. Kwinter
Minister of Financial Institutions

1st Reading November 26th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill continues The Canadian Insurance Exchange which was incorporated by letters patent on the 12th day of June, 1986. In addition, it sets out the object and powers of that Corporation, establishes a board of directors and provides a mechanism for regulating the operation of the exchange.

The other main features of the Bill are as follows:

1. Membership on the exchange is limited to underwriting syndicates and brokers.
2. Underwriting managers may act on behalf of syndicates but must be registered with the Corporation.
3. The Superintendent of Insurance has general supervisory power over the operation of the exchange.
4. Security funds are required to be established for the protection of policyholders.
5. The general framework is established by the Bill with the details of the operation to be governed by the by-laws of the Corporation and the Lieutenant Governor in Council in so far as it is considered necessary may intervene to protect the public interest.

Bill 158

1986

An Act to continue The Canadian Insurance Exchange

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“board” means the board of directors of the Corporation;

“broker” means a member of the exchange authorized by the board to place insurance on the exchange;

“by-laws” means the by-laws of the Corporation and orders made under section 14 and includes rules and directions made under the by-laws;

“Corporation” means The Canadian Insurance Exchange constituted by letters patent under the *Corporations Act* dated the 12th day of June, 1986 and continued under this Act;

R.S.O. 1980,
c. 95

“exchange” means a centralized market facility operated by the Corporation for placing of insurance risks, including reinsurance, with syndicates, either alone, with other syndicates or other insurers, to share the risks for a price negotiated within the facility;

“insurance” means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event and includes life insurance;

“Minister” means the Minister of Financial Institutions or other such member of the Executive Council to whom the administration of this Act may be assigned;

“Ministry” means Ministry of the Minister;

“person” includes a syndicate;

“prescribed” means prescribed by the regulations;

“regulations” means regulations made under this Act;

R.S.O. 1980,
c. 218

“Superintendent” means the Superintendent of Insurance appointed under the *Insurance Act*;

“syndicate” means an underwriting member of the exchange.

Corporation
continued
R.S.O. 1980,
c. 95

2.—(1) The Canadian Insurance Exchange incorporated by letters patent under the *Corporations Act* dated the 12th day of June, 1986 is continued as a corporation without share capital under the name “The Canadian Insurance Exchange”.

Name in
other
language

(2) The Corporation may have in its by-laws a provision setting out its name in any language and the Corporation may be legally designated by that name.

Head office

3. The head office of the Corporation and the exchange operated by the Corporation shall be located in The Municipality of Metropolitan Toronto.

Object

4.—(1) The object of the Corporation is to operate the exchange for the placing and underwriting of insurance by its members.

Non-profit

(2) The Corporation shall be carried on without the purpose of gain for the benefit of its members and any profits or other accretions to the Corporation shall be used in promoting its object.

Powers

5. The Corporation may do all things necessary or incidental to its object and, without limiting the generality of the foregoing, the Corporation may,

- (a) borrow money on the credit of the Corporation;
- (b) mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the Corporation, owned or subsequently acquired, to secure any obligation of the Corporation; and
- (c) acquire by purchase, lease or otherwise, and hold, for any period of time, land or interest therein whether or not the land or interest is necessary for its actual use or occupation or for carrying on its undertaking and may sell, charge, lease or other-

wise deal with or dispose of land or any interest therein.

6.—(1) The affairs of the Corporation shall be managed by the board of directors consisting of, Board of directors

(a) directors elected by the syndicates;

(b) directors elected by the brokers; and

(c) public directors appointed by the Lieutenant Governor in Council.

(2) The by-laws shall set out the number of directors to be elected under each of clauses (1) (a) and (b) and to be appointed under clause (1) (c) but the number of public directors shall be not less than 25 per cent of the total number of directors. Idem

(3) It is not necessary that all directors elected hold office for the same term. Term of office

(4) A majority of the members of the board constitutes a quorum. Quorum

(5) Notwithstanding any vacancy in the board, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. Vacancies

7.—(1) The directors, other than the public directors, shall be elected by the members at any general or special meeting of the Corporation in such manner, including by rotation or otherwise, as the by-laws provide. Election of directors

(2) The public directors shall be appointed by the Lieutenant Governor in Council for a period not exceeding three years. Appointment of directors

(3) No person employed or otherwise associated with a member of the Corporation is eligible to be a public director. Eligibility of public directors

(4) The directors of the Corporation in office immediately before this Act comes into force shall be deemed to be the directors elected under subsection (1) and shall remain in office until the members elect the directors in accordance with subsection (5). Continuation of directors

(5) The directors referred to in subsection (4) shall call a meeting of the members within six months after this Act First election

comes into force for the purpose of electing the board in accordance with this Act and the by-laws.

Chairman,
vice-chairman

8. The chairman and every vice-chairman of the board shall be elected by the board from among the directors and either the chairman or one of the vice-chairmen shall be a public director.

President

9.—(1) The president of the Corporation shall be appointed by the board and may, but need not, be a director.

Dis-
qualification

(2) No person employed or otherwise associated with a member of the Corporation is eligible to be president.

Duties of the
president

(3) The president shall be the chief executive officer of the Corporation.

Removal

(4) The president may be removed from office by the board upon a vote of two-thirds of the directors.

Appointment
of officers

10.—(1) Every officer of the Corporation, except the chairman and any vice-chairman of the board and the president, shall be appointed by the president with the approval of the board.

Officer not
to
be director

(2) No officer of the Corporation, except the chairman and any vice-chairman of the board and the president, may be a director of the Corporation.

Indemnity of
directors
and officers

(3) Every director and officer of the Corporation and his or her heirs, executors and administrators and estate and effects respectively shall be indemnified and saved harmless by the Corporation from and against,

- (a)** all costs, charges and expenses whatsoever that he or she sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him or her, by or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him or her, in or about the execution of the duties of his office; and
- (b)** all other costs, charges and expenses that he or she sustains or incurs in or about or in relation to the affairs thereof,

except such costs, charges or expenses as are occasioned by his or her own wilful neglect or default.

(4) The Corporation may purchase and maintain insurance for the benefit of a director or officer except insurance against a liability, cost, charge or expense incurred as a result of his or her failure to act honestly and in good faith with a view to the best interests of the Corporation.

Insurance

11.—(1) For the purposes of the object of the Corporation, the board has the power to govern and regulate,

Powers of the board

- (a) the exchange;
- (b) the members and underwriting managers including their internal arrangements;
- (c) the business conduct of members and underwriting managers and their employees and agents and other persons associated with them in the conduct of business;
- (d) the business or kind of business that members may conduct on the exchange and the terms under which any business may be conducted,

and, in the exercise of such powers and in addition to its power to pass by-laws under Part III of the *Corporations Act*, the board may pass such by-laws and make such rules and issue such orders and directions pursuant to the by-laws as it considers necessary, including the imposition of fines and other penalties for the breach of any by-law, rule, direction or order.

R.S.O. 1980,
c. 95

(2) If the board passes a by-law that provides for the making of an order restricting or suspending the privileges of any member, underwriting manager or employee, agent or other person associated with a member or manager in the conduct of business before a hearing of the matter is held, the by-law shall provide that any restriction or suspension may be imposed only where the board considers it necessary for the protection of the public interest and that the restriction or suspension expires fifteen days after the order was made unless a hearing is held within that time to confirm or set aside the order.

By-law
restricting
privileges

(3) The board may pass by-laws delegating to one or more persons or committees the power of the board,

Delegation
of power

- (a) to consider, hold hearings and make determinations regarding applications for any acceptance, approval, registration or authorization and to impose condi-

tions on any such acceptance, approval, registration or authorization;

- (b) to investigate and examine the business conduct of members and underwriting managers and their employees and agents and other persons associated with them in the conduct of business related to the exchange; and
- (c) to hold hearings, make determinations and impose discipline, including fines and other penalties, on persons referred to in clause (b) in matters related to business conduct,

subject to such restrictions, conditions and requirements as the board may set out in the by-laws.

By-laws come into force

(4) By-laws passed by the board come into force on being approved in writing by the Superintendent.

R.S.O. 1980, c. 446 does not apply

(5) By-laws are not regulations within the meaning of the *Regulations Act*.

Meeting by telephone, etc.

12.—(1) A meeting of the board or of any committee established by the board may be held by means of telephone, electronic or other communication facilities if,

- (a) the telephone, electronic or other communication facilities permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously; and
- (b) all of the participants in the meeting consent.

Idem

(2) Every person participating in a meeting described in subsection (1) shall be deemed to be present at the meeting.

Records

(3) The books and records of the Corporation may be kept in a bound or looseleaf book or may be entered or recorded by any system of mechanical or electronic data processing or any other information storage device.

Admissibility of records

(4) The bound or looseleaf book or, where the record is not kept in a looseleaf book, the information in the form in which it is available under subsection (3) is admissible as evidence, in the absence of evidence to the contrary, of the facts stated therein.

Application of R.S.O. 1980, c. 95

13. The *Corporations Act*, except sections 131, 275, 276, 312 and 313, applies to the Corporation, except,

- (a) to the extent that the provisions thereof are inconsistent with this Act;
- (b) that a public director may not be removed from office under section 67 of that Act; and
- (c) such other provision as may be prescribed.

14.—(1) The Lieutenant Governor in Council may by order exercise any power in the public interest that the board may exercise.

Orders by
L.G. in C.

(2) Where there is an inconsistency between any order made under subsection (1) and any by-law passed by the board, the order shall prevail.

Order
prevails

15.—(1) The Superintendent may direct to the Corporation, its members and underwriting managers and their employees, agents and other persons associated with them any inquiry respecting the conduct of their business.

Inquiries by
Superin-
tendent

(2) Every person to whom an inquiry is directed under subsection (1) shall make prompt and explicit answers to the inquiry.

Idem

16.—(1) The Superintendent and every person authorized in writing for the purpose by the Superintendent shall at all times have access to all the books, records, securities and documents, whether stored electronically or otherwise, of all persons to whom an inquiry may be directed under section 15 that relate directly or indirectly to business involving the exchange.

Access to
documents

(2) Every person in charge, possession, custody or control of books, records, securities or documents to which access is provided under subsection (1) shall ensure that access is provided.

Idem

17.—(1) Where upon a statement made under oath it appears probable to the Superintendent that any person has contravened any of the provisions of this Act or the regulations, the Superintendent by order may appoint any person to make such investigation as the Superintendent considers expedient for the due administration and enforcement of this Act and, in the order, shall determine the scope of the investigation.

Investigation

(2) For the purpose of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

Scope of
investigation

- (a) the affairs of the person in respect of whom the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the person and any property, assets or things owned, acquired or alienated, in whole or in part, by the person or by any person acting on behalf of or as agent for the person; and
- (b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with the person and the relationship that may at any time exist or have existed between the person and any other person by reason of investments, purchases, commissions promised, secured or paid, interests held or acquired, purchase or sale of stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

Powers to
summon
witnesses
and require
production

(3) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in the person's custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court and no provision of the *Evidence Act* exempts any bank or loan or trust corporation or any officer or employee thereof from the operation of this section.

R.S.O. 1980,
c. 145

Counsel

(4) A person giving evidence at an investigation under this section may be represented by counsel.

Seizure of
property

(5) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person whose affairs are being investigated.

Inspection
of seized
documents

(6) Where any documents, records, securities or other property are seized under subsection (5), the documents, records, securities or other property shall be made available for inspection and copying by the person from whom seized at a

mutually convenient time and place if a request for an opportunity to inspect or copy is made by that person to the person appointed to make the investigation.

(7) Where an investigation is ordered under this section, the Superintendent may appoint an accountant or other expert to examine documents, records, property and matters of the person whose affairs are being investigated.

Accountants
and experts

(8) Every person appointed under subsection (1) or (7) shall provide the Superintendent with a full and complete report of the investigation including any transcript of evidence and material in his or her possession relating to the investigation.

Reports of
investigation

18.—(1) The Corporation shall, within two months after each financial year, provide to its members and the Superintendent an annual report relating to its activities in that year, including,

Annual
report

- (a) financial statements of the Corporation and the auditor's report thereon;
- (b) consolidated financial statements of the business conducted on the exchange in such form as is approved by the Superintendent;
- (c) any other information considered relevant by the Corporation or requested by the Superintendent.

(2) The Superintendent shall report annually to the Minister on the affairs of the Corporation.

Report to
Minister

19.—(1) Subject to section 20, no person who is not a member of the exchange shall directly or indirectly,

Members

- (a) carry on business on or through the exchange; or
- (b) hold itself out as being a member of the exchange.

(2) Every person who is a member of the Corporation may carry on business on or through the exchange only in accordance with this Act, the regulations and the by-laws.

Idem

20.—(1) Every person registered with the Corporation as an underwriting manager may act on behalf of any syndicate in transacting business on or through the exchange in accordance with this Act, the regulations and the by-laws.

Managers

Idem	(2) The Corporation may register underwriting managers to manage and underwrite risks on behalf of one or more syndicates.
Idem	(3) No person shall directly or indirectly act or purport to act on behalf of any syndicate as an underwriting manager unless the person is registered under this section.
Syndicates require licences	21. —(1) No syndicate shall carry on business on or through the exchange without a licence for the purpose issued by the Superintendent.
Entitlement to licence	(2) Every syndicate that satisfies the Superintendent that it is approved for membership in the Corporation, has complied with the Act and the regulations, has paid the prescribed fee and has met the prescribed conditions and that provides such additional information as the Superintendent may require is entitled to be issued a licence.
Conditions	(3) The Superintendent, in issuing a licence, may make the licence subject to such conditions and limitations as the Superintendent considers to be in the public interest.
Term	(4) The term of every licence shall be one year or such other term as is prescribed.
Cancellation	(5) Where a syndicate ceases to be a member of the Corporation, the licence of that syndicate is thereupon cancelled.
Limitation	(6) No syndicate shall carry on business except on or through the exchange.
Paying cost of examination	(7) When the Superintendent considers it necessary to conduct an examination of the affairs of an applicant for a licence, the applicant shall pay the costs of the examination upon receiving a statement thereof certified by the Superintendent.
Changes to licences	22. —(1) The Superintendent may, at any time, in respect of any licence issued under section 21, <ul style="list-style-type: none">(a) reduce the term for which the licence was issued;(b) attach any condition or limitation relating to the carrying on of syndicate business that the Superintendent considers appropriate; or(c) amend or revoke any condition or limitation to which the licence is subject.

(2) Before effecting a change to a licence under subsection (1), the Superintendent shall give the licensee notice of an intention to make the change and shall afford the licensee an opportunity to be heard. Idem

(3) Notwithstanding subsection (2), the Superintendent may, without affording the licensee an opportunity to be heard, attach any condition or limitation on a licence that has been imposed on the licensee's membership in the Corporation. Idem

23.—(1) Sections 10 and 11 of the *Insurance Act* apply to applications for licences under section 21 of this Act and to changes made to a licence under section 22 of this Act as if the applicant or licensee, as the case may be, were an applicant for a licence under that Act. Application of R.S.O. 1980, c. 218

(2) Part I of the *Insurance Act*, except sections 14, 16 and 19, applies to syndicates as if they were insurers licensed under that Act and the Superintendent has the same powers and duties with respect to syndicates as are granted to and imposed on the Superintendent under the said Part I. Idem R.S.O. 1980, c. 218

(3) Except as otherwise prescribed, syndicates shall be deemed to be insurers for the purpose of the *Insurance Act*. Insurers R.S.O. 1980, c. 218

(4) In performing duties under Part I of the *Insurance Act*, the Superintendent may accept or adopt any inspection, examination, statement or report prepared by the Corporation with respect to the affairs of any syndicate if the Superintendent considers it appropriate to do so. Adoption of reports, etc.

(5) Where the Superintendent incurs cost in conducting an inspection or examination of a syndicate under Part I of the *Insurance Act*, the cost may be charged to the Corporation and, where it is so charged, the Corporation is liable for the cost. Cost

24.—(1) Every syndicate shall prepare annually and deliver to the Superintendent on or before the last day of February of each year a statement as to the affairs of the syndicate in such form as the Superintendent may require. Annual report

(2) For the purposes of subsection (1), the Superintendent may accept a report on the affairs of a syndicate prepared by the Corporation and such report may be in a form set out by by-law. Idem

Change in
control

(3) Except as prescribed, notice of every change of control of a syndicate shall be given by the syndicate to the Superintendent at least thirty days before the change.

Cease and
refrain order

25.—(1) Where the Superintendent believes, on reasonable grounds, that any person is committing an act or pursuing a course of conduct, or is about to commit an act or pursue a course of conduct in respect of that person's business on or through the exchange that is an unsound business practice, the Superintendent may give notice of an intention to order the person to,

- (a) cease or refrain from doing the act or pursuing the course of conduct;
- (b) perform such acts as, in the opinion of the Superintendent, are necessary to remedy the situation; or
- (c) cease or refrain from doing the act or pursuing the course of conduct and to perform such acts as, in the opinion of the Superintendent, are necessary to remedy the situation.

Hearing

(2) Any person receiving notice of intention under subsection (1) may require a hearing before the Superintendent by serving the Superintendent, within fifteen days after receiving the notice, with a request for a hearing.

Idem

(3) Where a request for a hearing is served in accordance with subsection (2), the Superintendent shall hold a hearing.

Immediate
order

(4) Where, in the opinion of the Superintendent, any delay in the issuance of an order proposed under subsection (1) would be prejudicial to the public interest to a significant extent, the Superintendent may make an order proposed to take effect immediately on its making.

Order

(5) Where a hearing is not requested under this section or where a hearing is held and the Superintendent remains of the opinion that the order proposed should be made, the Superintendent may make the order to take effect immediately on its making or at such later date as may be set out in the order.

Idem

(6) Where an immediate order is made under subsection (4) and a hearing is requested, the Superintendent shall hold the hearing as soon as reasonably possible and shall revoke the order after the hearing unless the Superintendent is satisfied that the order should remain.

(7) Subsection 11 (1) of the *Insurance Act* does not apply in respect of an order made under this section if the person to whom the order was directed did not request a hearing.

Non-application of R.S.O. 1980, c. 218

(8) Notwithstanding that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Divisional Court may grant a stay until disposition of the appeal.

Stay

26. Where it appears to the Superintendent that any person has failed to comply with or is violating any provision of this Act, the regulations or a by-law or of an order made under this Act, the Superintendent may, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights that the Superintendent may have, apply to a judge of the High Court for an order,

Court order

- (a) directing that the person comply with the provision or order or stop violating the provision or order; and
- (b) where the person is not an individual, directing the directors and officers of the person to comply with the provision or order or stop violating the provision or order,

and, upon the application, the judge may make the order requested or such other order as the judge thinks appropriate.

27.—(1) If the Superintendent is of the opinion that the assets of a syndicate are insufficient to justify its continuance in business or to provide proper security to persons effecting insurance with it in Ontario or that it has failed to comply with any law to the detriment or potential detriment of the public interest, the Superintendent may cancel the licence of the syndicate.

Cancellation of licence

(2) Before a licence is cancelled under subsection (1), the Superintendent shall give the syndicate notice of the intention and an opportunity to be heard.

Hearing

(3) Any decision to cancel a licence under this section may be appealed to the Divisional Court.

Appeal

(4) Notwithstanding that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Divisional Court may grant a stay until disposition of the appeal.

Stay

Security
fund:
Corporation

28.—(1) The Corporation shall establish and maintain security funds to be held in trust for the benefit of policyholders and insureds of syndicates to protect the policyholders and insureds from default by any syndicate.

syndicate

(2) Every syndicate, as a condition of maintaining membership in the Corporation, shall deposit assets in an amount determined by the board by by-law to be held in trust for the purposes of the security fund.

board of
trustees

(3) A board of trustees shall be established as prescribed to oversee the administration of the security funds.

rules

(4) The Corporation shall make rules pertaining to assessments, the methods of funding the security funds, including surcharges on premiums, the investment of the trust funds, the rights of syndicates with respect to their deposits under subsection (2) and the payment of claims of policyholders and insureds out of the security fund.

Investing
money

29.—(1) Subject to subsection (2), syndicates may invest money in the same manner and subject to the same limitations as an Ontario incorporated joint-stock insurance company.

Idem

(2) No syndicate may invest in another syndicate.

Offence

30.—(1) Every person who,

- (a) provides false information in any application under this Act or in any statement, return or answer required to be furnished under this Act or the regulations;
- (b) fails to comply with any order or direction made under or other requirement of this Act or the regulations; or
- (c) contravenes any provision of this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$100,000 or to imprisonment for a term of not more than one year or to both.

Idem

(2) Where a body corporate is guilty of an offence under subsection (1), every director or officer of the body corporate who, without reasonable cause, authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to

imprisonment for a term of not more than one year or to both.

(3) No proceeding under this Act shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Superintendent as certified by the Superintendent. Limitation

31.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) requiring the payment of fees by the Corporation and members in respect of any function performed by the Superintendent under this Act and prescribing the amounts thereof;
- (b) requiring reports to be filed with the Superintendent by any person or class of persons, prescribing when reports shall be filed and the information to be included in the reports;
- (c) governing the board of trustees including the constitution of the board of trustees and qualification for membership;
- (d) exempting the Corporation, any member or class of member from any provision of this Act or the regulations or of any other Act or regulations under any other Act;
- (e) making the Corporation, any member or any class of member subject to any Act or the regulations thereunder or any provision thereof;
- (f) respecting any matter referred to as prescribed by the regulations.

(2) Any regulation may be general or particular in its application. Scope of regulations

32.—(1) Clause 390 (a) of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “except for investments in the shares of a syndicate that is a member of The Canadian Insurance Exchange”.

(2) Clause 393 (a) of the said Act is amended by inserting after “Lloyds” in the fourth line “The Canadian Insurance Exchange and its members”.

33. Section 141 of the *Corporations Act*, being chapter 95 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Syndicates
excluded

(4) Corporations incorporated for the sole purpose of participating in or constituting a syndicate operating on The Canadian Insurance Exchange are not insurers within the meaning of subsection (1).

Commence-
ment

34. This Act comes into force on the day it receives Royal Assent.

Short title

35. The short title of this Act is the *Canadian Insurance Exchange Act, 1986*.

Bill 158

*(Chapter 70
Statutes of Ontario, 1986)*

An Act to continue The Canadian Insurance Exchange

The Hon. M. Kwinter
Minister of Financial Institutions

<i>1st Reading</i>	November 26th, 1986
<i>2nd Reading</i>	December 17th, 1986
<i>3rd Reading</i>	December 18th, 1986
<i>Royal Assent</i>	December 18th, 1986

Bill 158

1986

**An Act to continue The Canadian Insurance
Exchange**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“board” means the board of directors of the Corporation;

“broker” means a member of the exchange authorized by the board to place insurance on the exchange;

“by-laws” means the by-laws of the Corporation and orders made under section 14 and includes rules and directions made under the by-laws;

“Corporation” means The Canadian Insurance Exchange constituted by letters patent under the *Corporations Act* dated the 12th day of June, 1986 and continued under this Act;

R.S.O. 1980,
c. 95

“exchange” means a centralized market facility operated by the Corporation for placing of insurance risks, including reinsurance, with syndicates, either alone, with other syndicates or other insurers, to share the risks for a price negotiated within the facility;

“insurance” means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event and includes life insurance;

“Minister” means the Minister of Financial Institutions or other such member of the Executive Council to whom the administration of this Act may be assigned;

“Ministry” means Ministry of the Minister;

“person” includes a syndicate;

“prescribed” means prescribed by the regulations;

“regulations” means regulations made under this Act;

R.S.O. 1980,
c. 218 “Superintendent” means the Superintendent of Insurance appointed under the *Insurance Act*;

“syndicate” means an underwriting member of the exchange.

Corporation continued
R.S.O. 1980,
c. 95

2.—(1) The Canadian Insurance Exchange incorporated by letters patent under the *Corporations Act* dated the 12th day of June, 1986 is continued as a corporation without share capital under the name “The Canadian Insurance Exchange”.

Name in
other
language

(2) The Corporation may have in its by-laws a provision setting out its name in any language and the Corporation may be legally designated by that name.

Head office

3. The head office of the Corporation and the exchange operated by the Corporation shall be located in The Municipality of Metropolitan Toronto.

Object

4.—(1) The object of the Corporation is to operate the exchange for the placing and underwriting of insurance by its members.

Non-profit

(2) The Corporation shall be carried on without the purpose of gain for the benefit of its members and any profits or other accretions to the Corporation shall be used in promoting its object.

Powers

5. The Corporation may do all things necessary or incidental to its object and, without limiting the generality of the foregoing, the Corporation may,

- (a) borrow money on the credit of the Corporation;
- (b) mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the Corporation, owned or subsequently acquired, to secure any obligation of the Corporation; and
- (c) acquire by purchase, lease or otherwise, and hold, for any period of time, land or interest therein whether or not the land or interest is necessary for its actual use or occupation or for carrying on its undertaking and may sell, charge, lease or other-

wise deal with or dispose of land or any interest therein.

6.—(1) The affairs of the Corporation shall be managed by the board of directors consisting of, Board of directors

- (a) directors elected by the syndicates;
- (b) directors elected by the brokers; and
- (c) public directors appointed by the Lieutenant Governor in Council.

(2) The by-laws shall set out the number of directors to be elected under each of clauses (1) (a) and (b) and to be appointed under clause (1) (c) but the number of public directors shall be not less than 25 per cent of the total number of directors. Idem

(3) It is not necessary that all directors elected hold office for the same term. Term of office

(4) A majority of the members of the board constitutes a quorum. Quorum

(5) Notwithstanding any vacancy in the board, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. Vacancies

7.—(1) The directors, other than the public directors, shall be elected by the members at any general or special meeting of the Corporation in such manner, including by rotation or otherwise, as the by-laws provide. Election of directors

(2) The public directors shall be appointed by the Lieutenant Governor in Council for a period not exceeding three years. Appointment of directors

(3) No person employed or otherwise associated with a member of the Corporation is eligible to be a public director. Eligibility of public directors

(4) The directors of the Corporation in office immediately before this Act comes into force shall be deemed to be the directors elected under subsection (1) and shall remain in office until the members elect the directors in accordance with subsection (5). Continuation of directors

(5) The directors referred to in subsection (4) shall call a meeting of the members within six months after this Act First election

comes into force for the purpose of electing the board in accordance with this Act and the by-laws.

Chairman,
vice-chairman

8. The chairman and every vice-chairman of the board shall be elected by the board from among the directors and either the chairman or one of the vice-chairmen shall be a public director.

President

9.—(1) The president of the Corporation shall be appointed by the board and may, but need not, be a director.

Dis-
qualification

(2) No person employed or otherwise associated with a member of the Corporation is eligible to be president.

Duties of the
president

(3) The president shall be the chief executive officer of the Corporation.

Removal

(4) The president may be removed from office by the board upon a vote of two-thirds of the directors.

Appointment
of officers

10.—(1) Every officer of the Corporation, except the chairman and any vice-chairman of the board and the president, shall be appointed by the president with the approval of the board.

Officer not
to
be director

(2) No officer of the Corporation, except the chairman and any vice-chairman of the board and the president, may be a director of the Corporation.

Indemnity of
directors
and officers

(3) Every director and officer of the Corporation and his or her heirs, executors and administrators and estate and effects respectively shall be indemnified and saved harmless by the Corporation from and against,

- (a) all costs, charges and expenses whatsoever that he or she sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him or her, by or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him or her, in or about the execution of the duties of his office; and
- (b) all other costs, charges and expenses that he or she sustains or incurs in or about or in relation to the affairs thereof,

except such costs, charges or expenses as are occasioned by his or her own wilful neglect or default.

(4) The Corporation may purchase and maintain insurance for the benefit of a director or officer except insurance against a liability, cost, charge or expense incurred as a result of his or her failure to act honestly and in good faith with a view to the best interests of the Corporation.

Insurance

11.—(1) For the purposes of the object of the Corporation, the board has the power to govern and regulate,

Powers of the board

- (a) the exchange;
- (b) the members and underwriting managers including their internal arrangements;
- (c) the business conduct of members and underwriting managers and their employees and agents and other persons associated with them in the conduct of business;
- (d) the business or kind of business that members may conduct on the exchange and the terms under which any business may be conducted,

and, in the exercise of such powers and in addition to its power to pass by-laws under Part III of the *Corporations Act*, the board may pass such by-laws and make such rules and issue such orders and directions pursuant to the by-laws as it considers necessary, including the imposition of fines and other penalties for the breach of any by-law, rule, direction or order.

R.S.O. 1980,
c. 95

(2) If the board passes a by-law that provides for the making of an order restricting or suspending the privileges of any member, underwriting manager or employee, agent or other person associated with a member or manager in the conduct of business before a hearing of the matter is held, the by-law shall provide that any restriction or suspension may be imposed only where the board considers it necessary for the protection of the public interest and that the restriction or suspension expires fifteen days after the order was made unless a hearing is held within that time to confirm or set aside the order.

By-law
restricting
privileges

(3) The board may pass by-laws delegating to one or more persons or committees the power of the board,

Delegation
of power

- (a) to consider, hold hearings and make determinations regarding applications for any acceptance, approval, registration or authorization and to impose condi-

tions on any such acceptance, approval, registration or authorization;

- (b) to investigate and examine the business conduct of members and underwriting managers and their employees and agents and other persons associated with them in the conduct of business related to the exchange; and
- (c) to hold hearings, make determinations and impose discipline, including fines and other penalties, on persons referred to in clause (b) in matters related to business conduct,

subject to such restrictions, conditions and requirements as the board may set out in the by-laws.

By-laws come into force

(4) By-laws passed by the board come into force on being approved in writing by the Superintendent.

R.S.O. 1980, c. 446 does not apply

(5) By-laws are not regulations within the meaning of the *Regulations Act*.

Meeting by telephone, etc.

12.—(1) A meeting of the board or of any committee established by the board may be held by means of telephone, electronic or other communication facilities if,

- (a) the telephone, electronic or other communication facilities permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously; and
- (b) all of the participants in the meeting consent.

Idem

(2) Every person participating in a meeting described in subsection (1) shall be deemed to be present at the meeting.

Records

(3) The books and records of the Corporation may be kept in a bound or looseleaf book or may be entered or recorded by any system of mechanical or electronic data processing or any other information storage device.

Admissibility of records

(4) The bound or looseleaf book or, where the record is not kept in a looseleaf book, the information in the form in which it is available under subsection (3) is admissible as evidence, in the absence of evidence to the contrary, of the facts stated therein.

Application of R.S.O. 1980, c. 95

13. The *Corporations Act*, except sections 131, 275, 276, 312 and 313, applies to the Corporation, except,

- (a) to the extent that the provisions thereof are inconsistent with this Act;
- (b) that a public director may not be removed from office under section 67 of that Act; and
- (c) such other provision as may be prescribed.

14.—(1) The Lieutenant Governor in Council may by order exercise any power in the public interest that the board may exercise. Orders by
L.G. in C.

(2) Where there is an inconsistency between any order made under subsection (1) and any by-law passed by the board, the order shall prevail. Order
prevails

15.—(1) The Superintendent may direct to the Corporation, its members and underwriting managers and their employees, agents and other persons associated with them any inquiry respecting the conduct of their business. Inquiries by
Superin-
tendent

(2) Every person to whom an inquiry is directed under subsection (1) shall make prompt and explicit answers to the inquiry. Idem

16.—(1) The Superintendent and every person authorized in writing for the purpose by the Superintendent shall at all times have access to all the books, records, securities and documents, whether stored electronically or otherwise, of all persons to whom an inquiry may be directed under section 15 that relate directly or indirectly to business involving the exchange. Access to
documents

(2) Every person in charge, possession, custody or control of books, records, securities or documents to which access is provided under subsection (1) shall ensure that access is provided. Idem

17.—(1) Where upon a statement made under oath it appears probable to the Superintendent that any person has contravened any of the provisions of this Act or the regulations, the Superintendent by order may appoint any person to make such investigation as the Superintendent considers expedient for the due administration and enforcement of this Act and, in the order, shall determine the scope of the investigation. Investigation

(2) For the purpose of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine, Scope of
investigation

- (a) the affairs of the person in respect of whom the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the person and any property, assets or things owned, acquired or alienated, in whole or in part, by the person or by any person acting on behalf of or as agent for the person; and
- (b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with the person and the relationship that may at any time exist or have existed between the person and any other person by reason of investments, purchases, commissions promised, secured or paid, interests held or acquired, purchase or sale of stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

Powers to
summon
witnesses
and require
production

(3) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in the person's custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court and no provision of the *Evidence Act* exempts any bank or loan or trust corporation or any officer or employee thereof from the operation of this section.

R.S.O. 1980,
c. 145

Counsel

(4) A person giving evidence at an investigation under this section may be represented by counsel.

Seizure of
property

(5) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person whose affairs are being investigated.

Inspection
of seized
documents

(6) Where any documents, records, securities or other property are seized under subsection (5), the documents, records, securities or other property shall be made available for inspection and copying by the person from whom seized at a

mutually convenient time and place if a request for an opportunity to inspect or copy is made by that person to the person appointed to make the investigation.

(7) Where an investigation is ordered under this section, the Superintendent may appoint an accountant or other expert to examine documents, records, property and matters of the person whose affairs are being investigated.

Accountants
and experts

(8) Every person appointed under subsection (1) or (7) shall provide the Superintendent with a full and complete report of the investigation including any transcript of evidence and material in his or her possession relating to the investigation.

Reports of
investigation

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Annual
report

(a) financial statements of the Corporation and the auditor's report thereon;

(b) consolidated financial statements of the business conducted on the exchange in such form as is approved by the Superintendent;

(c) any other information considered relevant by the Corporation or requested by the Superintendent.

(2) The Superintendent shall report annually to the Minister on the affairs of the Corporation.

Report to
Minister

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(a) carry on business on or through the exchange; or

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- Idem (2) The Corporation may register underwriting managers to manage and underwrite risks on behalf of one or more syndicates.
- Idem (3) No person shall directly or indirectly act or purport to act on behalf of any syndicate as an underwriting manager unless the person is registered under this section.
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- Entitlement to licence (2) Every syndicate that satisfies the Superintendent that it is approved for membership in the Corporation, has complied with the Act and the regulations, has paid the prescribed fee and has met the prescribed conditions and that provides such additional information as the Superintendent may require is entitled to be issued a licence.
- Conditions (3) The Superintendent, in issuing a licence, may make the licence subject to such conditions and limitations as the Superintendent considers to be in the public interest.
- Term (4) The term of every licence shall be one year or such other term as is prescribed.
- Cancellation (5) Where a syndicate ceases to be a member of the Corporation, the licence of that syndicate is thereupon cancelled.
- Limitation (6) No syndicate shall carry on business except on or through the exchange.
- Paying cost of examination (7) When the Superintendent considers it necessary to conduct an examination of the affairs of an applicant for a licence, the applicant shall pay the costs of the examination upon receiving a statement thereof certified by the Superintendent.
- Changes to licences **22.**—(1) The Superintendent may, at any time, in respect of any licence issued under section 21,
- (a) reduce the term for which the licence was issued;
 - (b) attach any condition or limitation relating to the carrying on of syndicate business that the Superintendent considers appropriate; or
 - (c) amend or revoke any condition or limitation to which the licence is subject.

(2) Before effecting a change to a licence under subsection (1), the Superintendent shall give the licensee notice of an intention to make the change and shall afford the licensee an opportunity to be heard. Idem

(3) Notwithstanding subsection (2), the Superintendent may, without affording the licensee an opportunity to be heard, attach any condition or limitation on a licence that has been imposed on the licensee's membership in the Corporation. Idem

23.—(1) Sections 10 and 11 of the *Insurance Act* apply to applications for licences under section 21 of this Act and to changes made to a licence under section 22 of this Act as if the applicant or licensee, as the case may be, were an applicant for a licence under that Act. Application of
of
R.S.O. 1980,
c. 218

(2) Part I of the *Insurance Act*, except sections 14, 16 and 19, applies to syndicates as if they were insurers licensed under that Act and the Superintendent has the same powers and duties with respect to syndicates as are granted to and imposed on the Superintendent under the said Part I. Idem
R.S.O. 1980,
c. 218

(3) Except as otherwise prescribed, syndicates shall be deemed to be insurers for the purpose of the *Insurance Act*. Insurers
R.S.O. 1980,
c. 218

(4) In performing duties under Part I of the *Insurance Act*, the Superintendent may accept or adopt any inspection, examination, statement or report prepared by the Corporation with respect to the affairs of any syndicate if the Superintendent considers it appropriate to do so. Adoption of
reports, etc.

(5) Where the Superintendent incurs cost in conducting an inspection or examination of a syndicate under Part I of the *Insurance Act*, the cost may be charged to the Corporation and, where it is so charged, the Corporation is liable for the cost. Cost

24.—(1) Every syndicate shall prepare annually and deliver to the Superintendent on or before the last day of February of each year a statement as to the affairs of the syndicate in such form as the Superintendent may require. Annual
report

(2) For the purposes of subsection (1), the Superintendent may accept a report on the affairs of a syndicate prepared by the Corporation and such report may be in a form set out by by-law. Idem

Change in
control

(3) Except as prescribed, notice of every change of control of a syndicate shall be given by the syndicate to the Superintendent at least thirty days before the change.

Cease and
refrain order

25.—(1) Where the Superintendent believes, on reasonable grounds, that any person is committing an act or pursuing a course of conduct, or is about to commit an act or pursue a course of conduct in respect of that person's business on or through the exchange that is an unsound business practice, the Superintendent may give notice of an intention to order the person to,

- (a) cease or refrain from doing the act or pursuing the course of conduct;
- (b) perform such acts as, in the opinion of the Superintendent, are necessary to remedy the situation; or
- (c) cease or refrain from doing the act or pursuing the course of conduct and to perform such acts as, in the opinion of the Superintendent, are necessary to remedy the situation.

Hearing

(2) Any person receiving notice of intention under subsection (1) may require a hearing before the Superintendent by serving the Superintendent, within fifteen days after receiving the notice, with a request for a hearing.

Idem

(3) Where a request for a hearing is served in accordance with subsection (2), the Superintendent shall hold a hearing.

Immediate
order

(4) Where, in the opinion of the Superintendent, any delay in the issuance of an order proposed under subsection (1) would be prejudicial to the public interest to a significant extent, the Superintendent may make an order proposed to take effect immediately on its making.

Order

(5) Where a hearing is not requested under this section or where a hearing is held and the Superintendent remains of the opinion that the order proposed should be made, the Superintendent may make the order to take effect immediately on its making or at such later date as may be set out in the order.

Idem

(6) Where an immediate order is made under subsection (4) and a hearing is requested, the Superintendent shall hold the hearing as soon as reasonably possible and shall revoke the order after the hearing unless the Superintendent is satisfied that the order should remain.

(7) Subsection 11 (1) of the *Insurance Act* does not apply in respect of an order made under this section if the person to whom the order was directed did not request a hearing.

Non-application
of
R.S.O. 1980,
c. 218

(8) Notwithstanding that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Divisional Court may grant a stay until disposition of the appeal.

Stay

26. Where it appears to the Superintendent that any person has failed to comply with or is violating any provision of this Act, the regulations or a by-law or of an order made under this Act, the Superintendent may, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights that the Superintendent may have, apply to a judge of the High Court for an order,

Court order

- (a) directing that the person comply with the provision or order or stop violating the provision or order; and
- (b) where the person is not an individual, directing the directors and officers of the person to comply with the provision or order or stop violating the provision or order,

and, upon the application, the judge may make the order requested or such other order as the judge thinks appropriate.

27.—(1) If the Superintendent is of the opinion that the assets of a syndicate are insufficient to justify its continuance in business or to provide proper security to persons effecting insurance with it in Ontario or that it has failed to comply with any law to the detriment or potential detriment of the public interest, the Superintendent may cancel the licence of the syndicate.

Cancellation
of licence

(2) Before a licence is cancelled under subsection (1), the Superintendent shall give the syndicate notice of the intention and an opportunity to be heard.

Hearing

(3) Any decision to cancel a licence under this section may be appealed to the Divisional Court.

Appeal

(4) Notwithstanding that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Divisional Court may grant a stay until disposition of the appeal.

Stay

Security
fund:
Corporation

28.—(1) The Corporation shall establish and maintain security funds to be held in trust for the benefit of policyholders and insureds of syndicates to protect the policyholders and insureds from default by any syndicate.

syndicate

(2) Every syndicate, as a condition of maintaining membership in the Corporation, shall deposit assets in an amount determined by the board by by-law to be held in trust for the purposes of the security fund.

board of
trustees

(3) A board of trustees shall be established as prescribed to oversee the administration of the security funds.

rules

(4) The Corporation shall make rules pertaining to assessments, the methods of funding the security funds, including surcharges on premiums, the investment of the trust funds, the rights of syndicates with respect to their deposits under subsection (2) and the payment of claims of policyholders and insureds out of the security fund.

Investing
money

29.—(1) Subject to subsection (2), syndicates may invest money in the same manner and subject to the same limitations as an Ontario incorporated joint-stock insurance company.

Idem

(2) No syndicate may invest in another syndicate.

Offence

30.—(1) Every person who,

- (a) provides false information in any application under this Act or in any statement, return or answer required to be furnished under this Act or the regulations;
- (b) fails to comply with any order or direction made under or other requirement of this Act or the regulations; or
- (c) contravenes any provision of this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$100,000 or to imprisonment for a term of not more than one year or to both.

Idem

(2) Where a body corporate is guilty of an offence under subsection (1), every director or officer of the body corporate who, without reasonable cause, authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to

imprisonment for a term of not more than one year or to both.

(3) No proceeding under this Act shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Superintendent as certified by the Superintendent. Limitation

31.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) requiring the payment of fees by the Corporation and members in respect of any function performed by the Superintendent under this Act and prescribing the amounts thereof;
- (b) requiring reports to be filed with the Superintendent by any person or class of persons, prescribing when reports shall be filed and the information to be included in the reports;
- (c) governing the board of trustees including the constitution of the board of trustees and qualification for membership;
- (d) exempting the Corporation, any member or class of member from any provision of this Act or the regulations or of any other Act or regulations under any other Act;
- (e) making the Corporation, any member or any class of member subject to any Act or the regulations thereunder or any provision thereof;
- (f) respecting any matter referred to as prescribed by the regulations.

(2) Any regulation may be general or particular in its application. Scope of regulations

32.—(1) Clause 390 (a) of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “except for investments in the shares of a syndicate that is a member of The Canadian Insurance Exchange”.

(2) Clause 393 (a) of the said Act is amended by inserting after “Lloyds” in the fourth line “The Canadian Insurance Exchange and its members”.

33. Section 141 of the *Corporations Act*, being chapter 95 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Syndicates
excluded

(4) Corporations incorporated for the sole purpose of participating in or constituting a syndicate operating on The Canadian Insurance Exchange are not insurers within the meaning of subsection (1).

Commence-
ment

34. This Act comes into force on the day it receives Royal Assent.

Short title

35. The short title of this Act is the *Canadian Insurance Exchange Act, 1986*.

Bill 159

An Act to amend the Insurance Act

The Hon. M. Kwinter
Minister of Financial Institutions

1st Reading November 26th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purposes of the Bill are as follows:

1. Subsections 27 (2) and 28 (3) of the Act relate to that class of mutual insurance corporations known as farm mutuals. It is proposed that these provisions be amended to remove restrictions imposed on farm mutuals with respect to insuring against risks other than fire. In 1979, the *Corporations Act* was amended to permit farm mutuals to underwrite the same classes of insurance as property and casualty joint stock insurance companies and, as a result, the restrictions are no longer appropriate. (Sections 1 and 2)
2. Farm mutuals will be given the power to invest in joint stock insurance companies incorporated in Ontario other than companies licensed to undertake contracts of life insurance. A farm mutual will be required to obtain the approval of the Minister before exercising this power and the investment will be subject to prescribed terms and conditions. (Section 3 and subsection 8 (2))

Provision is made for such a joint stock insurance company to be a member of the Fire Mutuals Guarantee Fund. (Sections 4, 5 and 6)

3. Sections 387 and 389 of the Act are amended in order to give farm mutuals the same investment powers as other insurers. (Sections 7 and 9)
4. Bonds, debentures and other securities issued or guaranteed by the government of the Republic of South Africa will no longer be specifically authorized as permitted investments by insurers. (Subsection 8 (1))
5. Insurers, in accordance with regulations to be made under the *Securities Act*, will be authorized to acquire more than 30 per cent of the shares of a securities dealer. (Section 10)

Bill 159

1986

An Act to amend the Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 27 (2) of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) An insurer licensed to carry on fire insurance may insure an automobile against loss or damage under a policy falling within Part IV. Insurance of automobiles

2. Subsection 28 (3) of the said Act is amended by striking out "other than mercantile and manufacturing" in the third and fourth lines.

3. Section 98 of the said Act is amended by adding thereto the following clause:

(ea) prescribing and defining the terms and conditions upon which a mutual insurance corporation that is a participant in the Fire Mutuals Guarantee Fund may invest its funds in the fully paid shares of a joint stock insurance company.

4. Section 130 of the said Act is amended by adding thereto the following subsection:

(3a) Notwithstanding subsection (1), sections 142, 143 and 146 also apply to a joint stock insurance company if all of the shares of the company are owned by one or more mutual insurance corporations that participate in the Fire Mutuals Guarantee Fund. Idem

5.—(1) Section 143 of the said Act is amended by adding thereto the following subsection:

(4a) For the purposes of subsection (4), mutual insurance corporations that participate in the Fire Mutuals Guarantee Idem

Fund and joint stock insurance companies that participate in the Fund shall be deemed to be in the same class.

(2) Subsection 143 (5) of the said Act is amended by inserting after "Fund" in the third line "and no joint stock insurance company that participates in the Fund".

6. Subsection 146 (2) of the said Act is repealed and the following substituted therefor:

Parties to
agreement
for Fund

(2) Subject to the approval of the Superintendent, the following parties may enter into the agreement under subsection (1):

1. Insurers licensed to transact business on the premium note plan.
2. Joint stock insurance companies all the shares of which are owned by one or more mutual insurance corporations that participate in the Fund.
3. Mutual insurance corporations incorporated under subsection 148 (3) of the *Corporations Act*.

R.S.O. 1980,
c. 95

7. Section 387 of the said Act is amended by inserting after "society" in the fourth line "a mutual insurance corporation that participates in the Fire Mutuals Guarantee Fund".

8.—(1) Subclause 388 (1) (a) (i) of the said Act is amended by striking out "the Republic of South Africa" in the second line.

(2) Section 388 of the said Act is amended by adding thereto the following subsection:

Idem

(8a) Notwithstanding anything in subsection (1) or section 390, but subject to the approval of the Minister and to such terms and conditions as may be prescribed by the Lieutenant Governor in Council, a mutual insurance corporation that participates in the Fire Mutuals Guarantee Fund may invest in the fully paid shares of any joint stock insurance company incorporated in Ontario that is not licensed to undertake contracts of life insurance if, after the investment, all the shares of the joint stock insurance company will be owned by one or more mutual insurance corporations that participate in the Fund.

9. Section 389 of the said Act is amended by inserting after "society" in the second line "a mutual insurance corporation that participates in the Fire Mutuals Guarantee Fund".

10. Section 390 of the said Act is amended by adding thereto the following subsection:

(2) Notwithstanding clause (1) (d), an insurer, with the approval of the Superintendent, may acquire such percentage of the voting shares of a dealer within the meaning of the *Securities Act* as is prescribed in a regulation made under that Act.

Securities
dealers

R.S.O. 1980,
c. 466

11. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

12. The short title of this Act is the *Insurance Amendment Act, 1986*.

Short title

Bill 159

An Act to amend the Insurance Act

The Hon. M. Kwinter

Minister of Financial Institutions

1st Reading November 26th, 1986

2nd Reading February 10th, 1987

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The purposes of the Bill are as follows:

1. Subsections 27 (2) and 28 (3) of the Act relate to that class of mutual insurance corporations known as farm mutuals. It is proposed that these provisions be amended to remove restrictions imposed on farm mutuals with respect to insuring against risks other than fire. In 1979, the *Corporations Act* was amended to permit farm mutuals to underwrite the same classes of insurance as property and casualty joint stock insurance companies and, as a result, the restrictions are no longer appropriate. (Sections 1 and 2)
2. Farm mutuals will be given the power to invest in joint stock insurance companies incorporated in Ontario other than companies licensed to undertake contracts of life insurance. A farm mutual will be required to obtain the approval of the Minister before exercising this power and the investment will be subject to prescribed terms and conditions. (Section 3 and subsection 8 (2))

Provision is made for such a joint stock insurance company to be a member of the Fire Mutuals Guarantee Fund. (Sections 4, 5 and 6)

3. Sections 387 and 389 of the Act are amended in order to give farm mutuals the same investment powers as other insurers. (Sections 7 and 9)
4. Bonds, debentures and other securities issued or guaranteed by the government of the Republic of South Africa will no longer be specifically authorized as permitted investments by insurers. (Subsection 8 (1))
5. Insurers, subject to such terms and conditions as may be prescribed, will be authorized to acquire more than 30 per cent of the shares of a securities dealer. (Sections 3 and 10)

Bill 159

1987

An Act to amend the Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 27 (2) of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) An insurer licensed to carry on fire insurance may insure an automobile against loss or damage under a policy falling within Part IV. Insurance of automobiles

2. Subsection 28 (3) of the said Act is amended by striking out "other than mercantile and manufacturing" in the third and fourth lines.

3. Section 98 of the said Act is amended by adding thereto the following clauses:

(ea) prescribing and defining the terms and conditions upon which a mutual insurance corporation that is a participant in the Fire Mutuals Guarantee Fund may invest its funds in the fully paid shares of a joint stock insurance company;

(eb) prescribing and defining the terms and conditions upon which an insurer may invest its funds in the fully paid voting shares of a dealer within the meaning of the *Securities Act*. R.S.O. 1980, c. 466

4. Section 130 of the said Act is amended by adding thereto the following subsection:

(3a) Notwithstanding subsection (1), sections 142, 143 and 146 also apply to a joint stock insurance company if all of the shares of the company are owned by one or more mutual insurance corporations that participate in the Fire Mutuals Guarantee Fund. Idem

5.—(1) Section 143 of the said Act is amended by adding thereto the following subsection:

Idem

(4a) For the purposes of subsection (4) and subsection 142 (1), mutual insurance corporations that participate in the Fire Mutuals Guarantee Fund and joint stock insurance companies that participate in the Fund shall be deemed to be in the same class.

(2) Subsection 143 (5) of the said Act is amended by inserting after “Fund” in the third line “and no joint stock insurance company that participates in the Fund”.

6. Subsection 146 (2) of the said Act is repealed and the following substituted therefor:

Parties to
agreement
for Fund

(2) Subject to the approval of the Superintendent, the following parties may enter into the agreement under subsection (1):

1. Insurers licensed to transact business on the premium note plan.
2. Joint stock insurance companies all the shares of which are owned by one or more mutual insurance corporations that participate in the Fund.
3. Mutual insurance corporations incorporated under subsection 148 (3) of the *Corporations Act*.

R.S.O. 1980,
c. 95

7. Section 387 of the said Act is amended by inserting after “society” in the fourth line “a mutual insurance corporation that participates in the Fire Mutuals Guarantee Fund”.

8.—(1) Subclause 388 (1) (a) (i) of the said Act is amended by striking out “the Republic of South Africa” in the second line.

(2) Section 388 of the said Act is amended by adding thereto the following subsection:

Idem

(8a) Notwithstanding anything in subsection (1) or section 390, but subject to the approval of the Minister and to such terms and conditions as may be prescribed by the Lieutenant Governor in Council, a mutual insurance corporation that participates in the Fire Mutuals Guarantee Fund may invest in the fully paid shares of any joint stock insurance company incorporated in Ontario that is not licensed to undertake contracts of life insurance if, after the investment, all the shares of the joint stock insurance company will be owned by one or

more mutual insurance corporations that participate in the Fund.

9. Section 389 of the said Act is amended by inserting after “society” in the second line “a mutual insurance corporation that participates in the Fire Mutuals Guarantee Fund”.

10. Section 390 of the said Act is amended by adding thereto the following subsections:

➡ (2) Subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council, an insurer, with the approval of the Superintendent, may invest its funds in the fully paid voting shares of a dealer within the meaning of the *Securities Act*.

Securities
dealers

R.S.O. 1980,
c. 466

(3) Clauses (1) (c) and (d) do not apply to an investment under subsection (2).

Non-
application
of
subs. (1)
(c, d)

Definition

(4) For the purposes of this section and regulations made under clause 98 (eb), “voting share” means a share of any class of shares of a corporation carrying voting rights under all circumstances and a share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing. ▲

11. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

12. The short title of this Act is the *Insurance Amendment Act, 1987*.

Short title

Bill 159

*(Chapter 8
Statutes of Ontario, 1987)*

An Act to amend the Insurance Act

The Hon. M. Kwinter
Minister of Financial Institutions

<i>1st Reading</i>	November 26th, 1986
<i>2nd Reading</i>	February 10th, 1987
<i>3rd Reading</i>	February 11th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 159

1987

An Act to amend the Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 27 (2) of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) An insurer licensed to carry on fire insurance may insure an automobile against loss or damage under a policy falling within Part IV. Insurance of automobiles

2. Subsection 28 (3) of the said Act is amended by striking out "other than mercantile and manufacturing" in the third and fourth lines.

3. Section 98 of the said Act is amended by adding thereto the following clauses:

(ea) prescribing and defining the terms and conditions upon which a mutual insurance corporation that is a participant in the Fire Mutuals Guarantee Fund may invest its funds in the fully paid shares of a joint stock insurance company;

(eb) prescribing and defining the terms and conditions upon which an insurer may invest its funds in the fully paid voting shares of a dealer within the meaning of the *Securities Act*.

R.S.O. 1980,
c. 466

4. Section 130 of the said Act is amended by adding thereto the following subsection:

(3a) Notwithstanding subsection (1), sections 142, 143 and 146 also apply to a joint stock insurance company if all of the shares of the company are owned by one or more mutual insurance corporations that participate in the Fire Mutuals Guarantee Fund. Idem

5.—(1) Section 143 of the said Act is amended by adding thereto the following subsection:

Idem

(4a) For the purposes of subsection (4) and subsection 142 (1), mutual insurance corporations that participate in the Fire Mutuals Guarantee Fund and joint stock insurance companies that participate in the Fund shall be deemed to be in the same class.

(2) Subsection 143 (5) of the said Act is amended by inserting after “Fund” in the third line “and no joint stock insurance company that participates in the Fund”.

6. Subsection 146 (2) of the said Act is repealed and the following substituted therefor:

Parties to
agreement
for Fund

(2) Subject to the approval of the Superintendent, the following parties may enter into the agreement under subsection (1):

1. Insurers licensed to transact business on the premium note plan.
2. Joint stock insurance companies all the shares of which are owned by one or more mutual insurance corporations that participate in the Fund.
3. Mutual insurance corporations incorporated under subsection 148 (3) of the *Corporations Act*.

R.S.O. 1980,
c. 95

7. Section 387 of the said Act is amended by inserting after “society” in the fourth line “a mutual insurance corporation that participates in the Fire Mutuals Guarantee Fund”.

8.—(1) Subclause 388 (1) (a) (i) of the said Act is amended by striking out “the Republic of South Africa” in the second line.

(2) Section 388 of the said Act is amended by adding thereto the following subsection:

Idem

(8a) Notwithstanding anything in subsection (1) or section 390, but subject to the approval of the Minister and to such terms and conditions as may be prescribed by the Lieutenant Governor in Council, a mutual insurance corporation that participates in the Fire Mutuals Guarantee Fund may invest in the fully paid shares of any joint stock insurance company incorporated in Ontario that is not licensed to undertake contracts of life insurance if, after the investment, all the shares of the joint stock insurance company will be owned by one or

more mutual insurance corporations that participate in the Fund.

9. Section 389 of the said Act is amended by inserting after “society” in the second line “a mutual insurance corporation that participates in the Fire Mutuals Guarantee Fund”.

10. Section 390 of the said Act is amended by adding thereto the following subsections:

(2) Subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council, an insurer, with the approval of the Superintendent, may invest its funds in the fully paid voting shares of a dealer within the meaning of the *Securities Act*.

Securities
dealers

R.S.O. 1980,
c. 466

(3) Clauses (1) (c) and (d) do not apply to an investment under subsection (2).

Non-
application
of
subs. (1)
(c, d)

(4) For the purposes of this section and regulations made under clause 98 (eb), “voting share” means a share of any class of shares of a corporation carrying voting rights under all circumstances and a share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing.

Definition

11. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

12. The short title of this Act is the *Insurance Amendment Act, 1987*.

Short title

Bill 160

**An Act to provide for
greater Certainty in the
Reconciliation of the
Personal Interests of
Members of the Assembly
and the Executive Council
with their Duties of Office**

The Hon. I. Scott
Attorney General

1st Reading November 27th, 1986
2nd Reading
3rd Reading
Royal Assent

Projet de loi 160

**Loi assurant une plus
grande certitude quant au
rapprochement des intérêts
personnels des membres de
l'Assemblée et du Conseil
des ministres avec les
devoirs de leurs fonctions**

L'honorable I. Scott
procureur général

1^{re} lecture 27 novembre 1986
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The Bill codifies the conduct of members of the Assembly and of the Executive Council that constitutes abuses of office.

They are:

1. Conflict of interest (s. 2).
2. Use of insider information (s. 3).
3. Use of influence of office (s. 4).
4. Acceptance of extra benefits (s. 5).

In addition, it is an abuse of office for a member of the Executive Council to grant a benefit to a former member of the Executive Council or to a person on whose behalf a former member has made representations during the first year after the former member leaves the Executive Council (s. 6). It is also an abuse of office for a member of the Executive Council to continue to carry on business (s. 7).

A Commissioner is established as an officer of the Assembly to act as advisor and authority in respect of breaches of the Act. The Commissioner ensures that the required disclosures are adequate and may conduct inquiries and give opinions respecting compliance with the Act. The Commissioner may also recommend that the Assembly impose specified penalties against a member who contravenes the Act.

NOTES EXPLICATIVES

Le projet de loi codifie les actes des membres de l'Assemblée législative et du Conseil des ministres qui constituent des abus de fonction. Ces actes sont les suivants :

1. Conflit d'intérêts (art. 2).
2. Usage de renseignements d'initiés (art. 3).
3. Usage de l'influence dérivée des fonctions (art. 4).
4. Acceptation d'avantages supplémentaires (art. 5).

En outre, constitue un abus de fonction le fait pour un membre du Conseil des ministres d'accorder un avantage à un ancien membre du Conseil ou à une personne pour laquelle un ancien membre a fait des observations durant la première année qui suit son départ du Conseil (art. 6). Constitue également un abus de fonction le fait pour un membre de continuer d'exercer des activités commerciales (art. 7).

Est créé un poste de Commissaire qui est un fonctionnaire de l'Assemblée et qui, à ce titre, conseille et prend des décisions dans le cas où des infractions sont commises à la loi. Le Commissaire s'assure que les divulgations requises sont satisfaisantes, et peut effectuer des enquêtes et donner des avis au sujet de l'observation de la loi. Le Commissaire peut également recommander que l'Assemblée impose des sanctions précises à un membre qui contrevient à la loi.

Bill 160**1986**

**An Act to provide for greater Certainty in the
Reconciliation of the Personal Interests of
Members of the Assembly and the Executive
Council with their Duties of Office**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- | | |
|----------------------|--|
| Definitions | 1. In this Act, |
| "membre" | "member" means a member of the Legislative Assembly or of the Executive Council, or both; |
| "intérêt personnel" | "private interest" does not include an interest in a decision, <ul style="list-style-type: none">(a) that is of general public application,(b) that affects a member as one of a broad class of electors, or(c) that concerns the remuneration and benefits of a member or an officer or employee of the Legislative Assembly; |
| "conjoint" | "spouse" means a person of the opposite sex to whom the member is married and with whom the member has not entered into a separation agreement or a person of the opposite sex with whom the member is living in a conjugal relationship outside marriage. |
| Conflict of interest | 2. For the purposes of this Act, a member has a conflict of interest when the member makes a decision or participates in making a decision in the execution of his or her office and at the same time knows that in the making of the decision there is the opportunity to further his or her private interest. |
| Insider information | 3. A member shall not use information that is gained in the execution of his or her office and is not available to the |

Projet de loi 160

1986

Loi assurant une plus grande certitude quant au rapprochement des intérêts personnels des membres de l'Assemblée et du Conseil des ministres avec les devoirs de leurs fonctions

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Les définitions qui suivent s'appliquent à la présente loi. Définitions

«conjoint» Personne du sexe opposé avec qui le membre est marié et avec qui il n'a pas conclu d'accord de séparation, ou personne du sexe opposé avec qui il vit dans une union conjugale hors du mariage. «spouse»

«intérêt personnel» Ne comprend pas un intérêt dans une décision qui, selon le cas : «private interest»

- a) est d'application publique en général;
- b) concerne un membre en sa qualité de membre d'une vaste catégorie d'électeurs;
- c) concerne la rémunération et les avantages d'un membre, d'un fonctionnaire ou d'un employé de l'Assemblée législative.

«membre» Membre de l'Assemblée législative ou du Conseil des ministres, ou des deux. «member»

2 Pour l'application de la présente loi, le membre a un conflit d'intérêts lorsqu'il prend une décision ou participe à celle-ci dans l'exécution de ses fonctions et qu'il sait, en prenant cette décision, qu'existe la possibilité de favoriser ses intérêts personnels. Conflit d'intérêts

3 Le membre n'utilise pas les renseignements qu'il obtient dans l'exercice de ses fonctions et qui ne sont pas accessibles Renseignements d'initiers

general public to further or seek to further the member's private interest.

Influence

4. A member shall not use his or her office to seek to influence a decision made by another person to further the member's private interest.

Accepting
extra
benefits

5.—(1) A member shall not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office.

Exception

(2) Subsection (1) does not apply to a gift or personal benefit that is received as an incidence of the protocol or social obligations that normally accompany the responsibilities of office.

Disclosure

(3) Where a gift or personal benefit referred to in subsection (2) exceeds \$200 in value, or where the total value received directly or indirectly from one source in any twelve-month period exceeds \$200, the member shall immediately disclose to the Commissioner in the form prescribed by the regulations the nature of the gift or benefit, its source and the circumstances under which it was given and accepted.

Benefitting
former
members of
the Executive
Council

6.—(1) The Executive Council or a member of the Executive Council or an employee of a ministry other than an employee of an agency, board or commission of the government shall not knowingly award or approve a contract with, or grant a benefit to, a former member of the Executive Council that is not on terms common to all persons similarly entitled, other than in respect of further duties in the service of the Crown, until twelve months have expired after the date when the former member ceased to hold office.

Idem

(2) The Executive Council or a member of the Executive Council or an employee of a ministry other than an employee of an agency, board or commission of the government shall not knowingly award or approve a contract with, or grant a benefit to, a person on whose behalf a former member of the Executive Council has made representations in respect of the contract or benefit until twelve months have expired after the date when the former member ceased to hold office.

Carrying
on
business

7.—(1) A member of the Executive Council shall not,

au public en général, afin de favoriser ou de chercher à favoriser ses intérêts personnels.

4 Le membre ne fait pas usage de ses fonctions afin de chercher à influencer une décision prise par une autre personne, dans le dessein de favoriser ses intérêts personnels. Influence

5 (1) Sauf dans le cas d'une indemnisation qu'autorise la loi, le membre n'accepte pas d'honoraires, de dons ni d'avantages personnels qui sont liés, directement ou indirectement, à l'exercice des devoirs de ses fonctions. Acceptation d'avantages supplémentaires

(2) Le paragraphe (1) ne s'applique pas à un don ou à un avantage personnel qui est reçu dans le cadre du protocole ou d'obligations sociales qui accompagnent habituellement les charges de la fonction. Exception

(3) Si le don ou l'avantage personnel visé au paragraphe (2) a une valeur supérieure à 200 \$, ou si la valeur totale reçue, directement ou indirectement, d'une source au cours d'une période de douze mois est supérieure à 200 \$, le membre divulgue immédiatement au Commissaire, dans la forme prescrite par les règlements, la nature du don ou de l'avantage, sa source et les circonstances dans lesquelles il a été remis et accepté. Divuligation

6 (1) Le Conseil des ministres, l'un de ses membres ou un employé d'un ministère, à l'exclusion d'un employé, d'un organisme, d'un conseil ou d'une commission du gouvernement, n'accorde ni n'approuve sciemment un contrat en faveur d'un ancien membre du Conseil des ministres, ni ne lui accorde un avantage dont les conditions ne sont pas les mêmes pour toutes les personnes y ayant semblablement droit, à l'exclusion d'avantages concernant d'autres devoirs au service de la Couronne, et ce, tant que douze mois ne se sont pas écoulés à compter de la date où l'ancien membre a cessé d'exercer ses fonctions. Avantages offerts à d'anciens membres du Conseil des ministres

(2) Le Conseil des ministres, l'un de ses membres ou un employé d'un ministère, à l'exclusion d'un employé, d'un organisme, d'un conseil ou d'une commission du gouvernement, n'accorde ni n'approuve sciemment un contrat, ni n'accorde un avantage en faveur d'une personne pour laquelle un ancien membre du Conseil des ministres a fait des observations concernant ce contrat ou cet avantage, tant que douze mois ne se sont pas écoulés à compter de la date où l'ancien membre a cessé d'exercer ses fonctions. Idem

7 (1) À l'exclusion de ce qui est requis ou permis dans le cadre de ses responsabilités, le membre du Conseil des ministres, selon le cas : Activités commerciales

- (a) engage in employment or in the practice of a profession;
- (b) carry on a business, including the management of personal financial interests; or
- (c) hold an office or directorship other than in a social club, religious organization or political party,

except as required or permitted by the responsibilities of being a member of the Executive Council.

Management
trusts

(2) Where a trust is established for the purposes of complying with clause (1) (b),

- (a) the trustees shall be persons who are at arm's length with the member and approved by the Commissioner;
- (b) the trustees shall not consult with the member with respect to managing the trust property; and
- (c) the trustees shall disclose to the member and the Commissioner material changes in assets, liabilities and financial interests contained in the trust after the changes have occurred.

Procedure
on conflict
of interest

8.—(1) A member who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Assembly or the Executive Council, or a committee of either of them, shall, if present at a meeting considering the matter,

- (a) disclose the general nature of the conflict of interest; and
- (b) withdraw from the meeting without voting or participating in the consideration of the matter.

Idem

(2) A member of the Executive Council who has reasonable grounds to believe that he or she has a conflict of interest in a matter requiring the member's decision shall request another member of the Executive Council to perform the member's duties in the matter for the purpose of making the decision and the member to whom it is referred may act in the matter for the period of time necessary for the purpose.

- a) n'exerce pas de profession ni d'emploi;
- b) n'exerce pas d'activités commerciales, notamment la gestion d'intérêts financiers personnels;
- c) n'occupe pas de poste ni ne fait partie d'un conseil d'administration, sauf dans un club social, une organisation religieuse ou un parti politique.

(2) Si une fiducie est créée dans le but de se conformer à l'alinéa (1) b), les fiduciaires :

Fiducies de gestion

- a) n'ont pas de lien de dépendance avec le membre et sont approuvées par le Commissaire;
- b) ne s'entretiennent pas avec le membre de la gestion des biens en fiducie;
- c) divulguent au membre et au Commissaire les changements importants apportés à l'actif, au passif et aux intérêts financiers qui sont déposés en fiducie après que ces changements ont été faits.

8 (1) Le membre qui a des motifs raisonnables de croire qu'il a un conflit d'intérêts dans une affaire qui est devant l'Assemblée, le Conseil des ministres ou un de leurs comités est tenu, s'il est présent à la réunion où l'affaire est étudiée :

Procédure en cas de conflit d'intérêts

- a) de divulguer la nature générale du conflit d'intérêts;
- b) de se retirer de la réunion sans exercer son droit de vote ou sans participer à l'étude de l'affaire.

(2) Le membre du Conseil des ministres qui a des motifs raisonnables de croire qu'il a un conflit d'intérêts dans une affaire qui requiert sa décision, demande à un autre membre du Conseil d'exercer ses devoirs dans cette affaire en vue de prendre la décision. Le membre à qui ces devoirs sont confiés peut les exercer pendant le laps de temps nécessaire à cette fin.

Idem

Commissioner

- 9.**—(1) There shall be a Commissioner who is an officer of the Assembly.
- Appointment** (2) The Lieutenant Governor in Council shall appoint a person to the office of Commissioner on the address of the Assembly.
- Term of office** (3) The person appointed shall hold office for a term of five years and may be reappointed for a further term or terms.
- Removal** (4) The person appointed as Commissioner may be removed before the expiration of the term of office by the Lieutenant Governor in Council for cause on the address of the Assembly.
- Salary** (5) The Commissioner shall be paid such remuneration and allowances as are fixed by the Lieutenant Governor in Council.
- Staff** (6) The employees and officers that are necessary for the performance of the duties of the Commissioner shall be members of the staff of the Office of the Assembly.
- Annual report** **10.** The Commissioner shall report annually upon the affairs of his or her office to the Speaker of the Assembly who shall cause the report to be laid before the Assembly.

Disclosure

- Disclosure statement** **11.**—(1) Every member shall, within thirty days of taking office, and thereafter at least annually, file with the Commissioner a disclosure statement in the form prescribed by the regulations.
- Contents** (2) The disclosure statement shall contain,
- (a) a statement of the assets, liabilities and financial interests of the member and the member's spouse and minor children;
 - (b) a statement of any income the member and the member's spouse and minor children, and private companies as defined in the *Securities Act* controlled by any of them, have received in the preceding twelve months or are entitled to receive in the next twelve months and the source of the income; and
 - (c) any other information that is prescribed by the regulations.

Commissaire

9 (1) Est créé un poste de Commissaire qui est un fonctionnaire de l'Assemblée. Commissaire

(2) Le lieutenant-gouverneur en conseil nomme une personne au poste de Commissaire sur adresse de l'Assemblée. Nomination

(3) La personne nommée exerce un mandat de cinq ans. Son mandat peut être renouvelé. Mandat

(4) Le lieutenant-gouverneur en conseil, sur adresse de l'Assemblée, peut révoquer la personne nommée en qualité de Commissaire avant l'expiration de son mandat, pour un motif valable. Révocation

(5) Le Commissaire reçoit la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil. Traitement

(6) Le personnel nécessaire à l'exécution des fonctions du Commissaire se compose des membres du personnel du bureau de l'Assemblée. Personnel

10 Chaque année, le Commissaire présente un rapport de ses travaux au président de l'Assemblée qui le fait déposer devant l'Assemblée. Rapport annuel

Divulgateion

11 (1) Chaque membre, dans les trente jours du début de ses fonctions, et au moins annuellement par la suite, dépose auprès du Commissaire un état de divulgation dans la forme prescrite par les règlements. État de divulgation

(2) L'état de divulgation comporte : Teneur

a) un état de l'actif, du passif et des intérêts financiers du membre, de son conjoint et de ses enfants mineurs;

b) un état de tout revenu que le membre, son conjoint, ses enfants mineurs, et les compagnies privées, au sens de la *Loi sur les valeurs mobilières*, dont l'un quelconque d'entre eux a le contrôle, ont reçu au cours des douze mois précédents ou sont en droit de recevoir au cours des douze prochains mois, ainsi que l'indication de la source de ce revenu; L.R.O. 1980, chap. 466

c) tout autre renseignement prescrit par les règlements.

Affiliated
corporations

(3) Where an asset, liability or financial interest is held in respect of a corporation, disclosure shall also be made of any other corporation that is an affiliate of the corporation as determined under subsections 1 (2) to (6) of the *Securities Act*.

R.S.O. 1980,
c. 466

Meeting with
Commissioner

(4) After filing a disclosure statement, the member and the member's spouse, if available, shall meet with the Commissioner to ensure that disclosure has been full and complete and to obtain advice on their obligations under this Act.

Public
disclosure
statement

12.—(1) After meeting with the member and with the member's spouse, if available, the Commissioner shall prepare a public disclosure statement containing all relevant information provided by the member and in respect of the member's spouse and minor children, except,

- (a) assets, liabilities and financial interests having a value of less than \$1,000;
- (b) the source of income where the income paid from the source has a value of less than \$1,000 in any twelve-month period;
- (c) the amount of income of the member's spouse or minor children or of a private company controlled by the spouse or a minor child where the income is paid from a source other than directly from a ministry or an agency, board or commission of the government;
- (d) the municipal address or legal description of real property that is primarily for the residential or recreational use of the member or the member's spouse or minor children;
- (e) personal property used for transportation or for household, educational, recreational, social or aesthetic purposes;
- (f) the amount of cash on hand or on deposit in a bank or other institution authorized to borrow money by means of receiving deposits from the general public;
- (g) the amount of Canada Savings Bonds and other investments or securities of fixed value issued or guaranteed by any level of government in Canada or an agency of such government;

(3) Si un actif, un passif ou un intérêt financier est détenu concernant une compagnie, toute autre compagnie qui fait partie du même groupe doit également faire l'objet d'une divulgation, comme le prévoient les paragraphes 1 (2) à (6) de la *Loi sur les valeurs mobilières*.

Compagnie
du même
groupe

L.R.O. 1980,
chap. 466

(4) Après avoir déposé un état de divulgation, le membre et son conjoint, si ce dernier est disponible, rencontrent le Commissaire afin de s'assurer que la divulgation a été complète, et d'obtenir des conseils concernant leurs obligations en vertu de la présente loi.

Rencontre
avec le
Commissaire

12 (1) Après avoir rencontré le membre et son conjoint, si ce dernier est disponible, le Commissaire établit un état de divulgation publique faisant état de tous les renseignements pertinents fournis par le membre, et concernant son conjoint et ses enfants mineurs, à l'exclusion de ce qui suit :

État de
divulgation
publique

- a) l'actif, le passif et les intérêts financiers dont la valeur est inférieure à 1 000 \$;
- b) la source de revenu, si ce revenu est inférieur à 1 000 \$ au cours d'une période de douze mois;
- c) le montant du revenu du conjoint, des enfants mineurs du membre, ou d'une compagnie privée que contrôle le conjoint ou un enfant mineur, si ce revenu provient d'une source autre que directement d'un ministère, d'un organisme, d'un conseil ou d'une commission du gouvernement;
- d) l'adresse municipale ou la description légale d'un bien immeuble utilisé essentiellement à des fins de résidence ou de loisir par le membre, son conjoint ou ses enfants mineurs;
- e) les biens meubles utilisés à des fins de transport, domestiques, éducatives, sociales, décoratives ou de loisirs;
- f) le montant de l'argent en caisse ou en dépôt dans une banque ou un autre établissement autorisé à faire des emprunts, grâce aux dépôts qu'il reçoit du grand public;
- g) le montant d'obligations d'épargne du Canada et d'autres placements ou valeurs mobilières à valeur fixe, émis ou garantis par un palier de gouvernement au Canada ou l'un de ses organismes;

- (h) the value of registered retirement savings plans that are not self-administered;
- (i) the amount invested in open-ended mutual funds;
- (j) the value of guaranteed investment certificates or other similar financial instruments;
- (k) the value of annuities and life insurance policies; and
- (l) the value of pension rights.

Exception

(2) The Commissioner may except from the public disclosure statement prepared under subsection (1) the source of income received by a member's spouse or minor child in respect of services that are customarily provided on a confidential basis.

Content

(3) The public disclosure statement shall contain a statement of the nature of the assets referred to in clauses (1) (f) to (l) and the name and location of persons or institutions against whom the assets are held.

Idem

(4) The public disclosure statement shall contain a statement of any gifts or benefits that have been disclosed to the Commissioner under subsection 5 (3).

Filing

(5) The Commissioner shall, as soon as is practicable, file the public disclosure statement with the Clerk of the Legislative Assembly who shall make it available for examination by the public.

**Commissioner's
opinions and
advice**

13.—(1) A member may, by application in writing, request that the Commissioner give an opinion and recommendations on any matter respecting the obligations of the member under this Act.

Inquiries

(2) The Commissioner may make such inquiries as the Commissioner considers appropriate and provide the member with a written opinion and recommendations.

Confidentiality

(3) The opinion and recommendations of the Commissioner are confidential, but may be released by the member or with the consent of the member in writing.

**Commissioner's
opinion on
referred
question**

14.—(1) A member who has reasonable and probable grounds to believe that another member is in contravention of this Act may, by application in writing setting out the grounds

- h) la valeur des régimes enregistrés d'épargne-retraite dont l'administration n'est pas autonome;
- i) le montant investi dans des compagnies d'investissement à capital variable;
- j) la valeur des certificats de placement garantis ou d'autres effets financiers semblables;
- k) la valeur de rentes et de polices d'assurance-vie;
- l) la valeur des droits à une pension.

(2) Le Commissaire peut soustraire de l'état de divulgation publique établi en vertu du paragraphe (1), la source du revenu que le conjoint ou l'enfant mineur du membre a reçu en ce qui concerne des services habituellement fournis confidentiellement. Exception

(3) L'état de divulgation publique comporte une déclaration de la nature de l'actif visé aux alinéas (1) f) à l), ainsi que les noms et lieux de personnes ou d'établissements à l'égard desquels l'actif est détenu. Teneur

(4) L'état de divulgation publique comporte une déclaration des dons ou avantages qui ont été divulgués au Commissaire en vertu du paragraphe 5 (3). Idem

(5) Dès que cela est possible, le Commissaire dépose l'état de divulgation publique auprès du greffier de l'Assemblée législative qui le met à la disposition du public pour examen. Dépôt

13 (1) Un membre peut, sur demande écrite, demander que le Commissaire donne un avis et formule des recommandations sur une affaire qui a trait aux obligations du membre en vertu de la présente loi. Avis et conseils du Commissaire

(2) Le Commissaire peut faire les enquêtes qu'il estime pertinentes, et fournir au membre, par écrit, son avis et ses recommandations. Enquête

(3) L'avis et les recommandations du Commissaire sont confidentiels. Ils peuvent toutefois être communiqués par le membre ou avec le consentement écrit de celui-ci. Confidentialité

14 (1) Un membre qui a des motifs raisonnables et probables de croire qu'un autre membre enfreint la présente loi peut, sur demande écrite qui énonce les motifs de sa conviction, demander au Commissaire qu'il fasse une enquête. Avis du Commissaire sur un renvoi

for the belief and the nature of the contravention alleged, request that the Commissioner give an opinion respecting the compliance of the other member with the provisions of this Act.

Idem (2) The Legislative Assembly may, by resolution, request that the Commissioner give an opinion on any matter respecting the compliance of a member with the provisions of this Act.

Idem (3) The Executive Council may request that the Commissioner give an opinion on any matter respecting the compliance of a member of the Executive Council with the provisions of this Act.

Inquiry by Assembly (4) Where a matter has been referred to the Commissioner under subsection (1) or (2), the Legislative Assembly or a committee thereof shall not conduct an inquiry into the matter.

Inquiry **15.**—(1) Upon receiving a request under section 14, the Commissioner may conduct an inquiry and for the purpose may elect to exercise the powers of a commission under Parts I and II of the *Public Inquiries Act*, in which case those Parts apply to the inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Report to Speaker (2) Where the request for an opinion is made under subsection 14 (1) or (2), the Commissioner shall report his or her opinion to the Speaker of the Assembly who shall cause the report to be laid before the Assembly.

Report to Lieutenant Governor in Council (3) Where the request for an opinion is made under subsection 14 (3), the Commissioner shall report his or her opinion to the Clerk of the Executive Council.

Penalties **16.**—(1) Where the Commissioner conducts an inquiry under Parts I and II of the *Public Inquiries Act* for the purposes of subsection 14 (1) or (2) and finds that the member has contravened section 3, 4, 5, 6, 7 or 8, or has refused to file a disclosure statement within the time provided by section 11, the Commissioner may recommend in the report that is laid before the Assembly,

R.S.O. 1980,
c. 411

- (a) that the member be reprimanded;
- (b) that the member pay a fine in an amount recommended by the Commissioner, but not exceeding \$5,000;
- (c) that the member pay compensation in respect of damage suffered by another person as a result of

tion ainsi que la nature de l'infraction prétendue, demander que le Commissaire donne son avis sur une affaire ayant trait à l'observation de la présente loi par l'autre membre.

(2) L'Assemblée législative peut, par voie de résolution, demander que le Commissaire donne son avis sur une affaire ayant trait à l'observation de la présente loi par un membre. Idem

(3) Le Conseil des ministres peut demander que le Commissaire donne son avis sur une affaire ayant trait à l'observation de la présente loi par l'un de ses membres. Idem

(4) Si une affaire a été transmise au Commissaire en vertu des paragraphes (1) ou (2), l'Assemblée législative ou l'un de ses comités n'enquête pas sur cette affaire. Enquête par l'Assemblée

15 (1) Après avoir reçu une demande en vertu de l'article 14, le Commissaire peut faire une enquête et, à cette fin, peut choisir d'exercer les pouvoirs conférés à une commission par les parties I et II de la *Loi sur les enquêtes publiques*, auquel cas, elles s'appliquent à l'enquête de la même façon que s'il s'agissait d'une enquête en vertu de cette loi. Enquête
L.R.O. 1980,
chap. 411

(2) Si la demande d'avis est faite en vertu des paragraphes 14 (1) ou (2), le Commissaire présente un rapport de son avis au président qui le fait déposer devant l'Assemblée. Rapport au président de l'Assemblée

(3) Si la demande d'avis est faite en vertu du paragraphe 14 (3), le Commissaire fait rapport de son avis au greffier du Conseil des ministres. Rapport au lieutenant-gouverneur en conseil

16 (1) Si le Commissaire fait une enquête en vertu des parties I et II de la *Loi sur les enquêtes publiques* aux fins des paragraphes 14 (1) ou (2), et constate que le membre a contrevenu à l'article 3, 4, 5, 6, 7 ou 8, ou a refusé de déposer un état de divulgation dans le délai prévu à l'article 11, il peut recommander, dans le rapport déposé devant l'Assemblée, une ou plusieurs des mesures suivantes : Pénalité
L.R.O. 1980,
chap. 411

- a) que le membre soit réprimandé;
- b) qu'il paie l'amende recommandée par le Commissaire, qui ne peut être supérieure à 5 000 \$;
- c) qu'il verse une indemnisation dont le Commissaire précise le montant, pour le dommage qu'a subi une autre personne, à la suite de la contravention du membre;

the member's contravention, in such amount as is specified by the Commissioner;

- (d) that the member's seat be declared vacant until an election is held in the member's electoral district;
- (e) that the member be ineligible to be nominated as a candidate for election as a member of the Assembly for such period as is specified by the Commissioner, but not exceeding eight years,

or any combination of them.

Order of
Assembly

R.S.O. 1980,
c. 235

(2) The Assembly may order the imposition of the recommendation of the Commissioner under subsection (1) or may reject the recommendation, and sections 45 and 48 of the *Legislative Assembly Act* apply in the same manner as to a contempt of the Assembly, except the power to further inquire into the contravention or to impose a punishment other than the one recommended.

Regulations

17. The Lieutenant Governor in Council may make regulations prescribing any matter that is referred to in this Act as prescribed by the regulations.

Commence-
ment

18.—(1) This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Filing of
disclosure
statements

(2) Members who are in office when this Act comes into force shall file the disclosure statement required by section 11 within thirty days after this Act comes into force.

Short title

19. The short title of this Act is the *Members' Standards of Office Act, 1986*.

- d) qu'il ait son siège déclaré vacant jusqu'à ce qu'une élection soit tenue dans la circonscription électorale du membre;
- e) qu'il n'ait pas le droit de se présenter comme candidat à une élection en qualité de membre de l'Assemblée et ce, pour la période que précise le Commissaire, mais qui ne peut être supérieure à huit ans.

(2) L'Assemblée peut ordonner l'imposition des mesures que recommande le Commissaire en vertu du paragraphe (1) ou rejeter ces recommandations. Les articles 45 et 48 de la *Loi sur l'Assemblée législative* s'appliquent de la même façon que dans le cas d'outrage à l'Assemblée, sauf qu'il n'est pas possible de pousser plus avant l'enquête relative à la contravention, ou d'imposer une sanction autre que celle qui est recommandée.

Ordre de l'Assemblée

L.R.O. 1980, chap. 235

17 Le lieutenant-gouverneur en conseil peut, par règlement, prescrire une question mentionnée dans la présente loi comme étant prescrite par les règlements.

Règlements

18 (1) La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

(2) Les membres en fonction lors de l'entrée en vigueur de la présente loi déposent l'état de divulgation requis par l'article 11 dans les trente jours de l'entrée en vigueur de la présente loi.

Dépôt des états de divulgation

19 Le titre abrégé de la présente loi est *Loi de 1986 sur les normes exigées des membres de l'Assemblée dans l'exercice de leurs fonctions*.

Titre abrégé

Bill 161

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General

1st Reading November 27th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The position of senior judge is created for the Unified Family Court.

SECTION 2. Correction of a reference.

SECTIONS 3, 4 and 5. These amendments are complementary to recent changes to the *Criminal Code* (Canada), which now refers to "provincial court judges" rather than "magistrates".

SECTION 6. The Official Guardian's report will no longer be automatic in all divorce proceedings involving children. Instead, whenever a question concerning custody of or access to a child is before the court in proceedings under the *Divorce Act, 1985* (Canada) or the *Children's Law Reform Act*, the Official Guardian will be empowered to investigate and report to the court on matters affecting the child. The Official Guardian will determine which cases will be investigated and the nature and extent of the investigation.

SECTION 7. This section corrects an oversight in the *Courts of Justice Act, 1984*. Parts of section 27 of the *Judicature Act*, concerning appeals of orders for costs, were omitted although it was not intended to repeal them.

SECTION 8. Provides express authorization for the renewal of old writs of execution, in accordance with the procedures that have been followed since January 1, 1985.

SECTION 9. Complementary to section 6.

Bill 161

1986

**An Act to amend the
Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 39 (1) of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:

(1) The Unified Family Court shall be presided over by,

Composition
of court

(a) a senior judge of the District Court, appointed for the Unified Family Court; or

(b) a judge of the District Court,

who is a local judge of the High Court and is authorized under subsection (2) to exercise the jurisdiction of a judge of the Provincial Court (Family Division).

(2) Section 39 of the said Act is amended by adding thereto the following subsection:

(2a) The senior judge appointed for the Unified Family Court shall direct and supervise the sittings of the Unified Family Court and the assignment of its judicial duties.

Duties of
senior judge

2. Subsection 44 (4) of the said Act is amended by striking out “a proceeding referred to in subsection 40 (1)” in the first and second lines and inserting in lieu thereof “a proceeding under a statutory provision set out in the Schedule to this Part”.

3. Subsection 47 (1) of the said Act, as amended by the Statutes of Ontario, 1984, Chapter 55, section 213, is further amended by striking out “magistrate under the *Criminal Code* (Canada)” in the second and third lines and inserting in lieu

thereof “judge sitting in the Provincial Court (Criminal Division)”.

4.—(1) Clause 61 (1) (b) of the said Act is repealed.

(2) Subsection 61 (2) of the said Act is repealed.

5. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 64, section 3, is repealed and the following substituted therefor:

Jurisdiction

(1) When sitting in the Provincial Court (Criminal Division), a provincial judge has the powers and authority that any Act of the Parliament of Canada confers on a provincial court judge or on two or more justices of the peace.

6.—(1) Subsections 125 (1) and (2) of the said Act are repealed and the following substituted therefor:

Investigation
and report of
Official
Guardian
S.C. 1986,
c. 4
R.S.O. 1980,
c. 68

(1) In a proceeding under the *Divorce Act, 1985* (Canada) or the *Children's Law Reform Act* in which a question concerning custody of or access to a child is before the court, the Official Guardian may cause an investigation to be made and may report and make recommendations to the court on all matters concerning custody of or access to the child and the child's support and education.

Idem

(2) The Official Guardian may act under subsection (1) on his or her own initiative, at the request of a court or at the request of any person.

(2) Subsection 125 (3) of the said Act is amended by striking out “divorce” in the seventh line.

(3) Subsections 125 (5), (6) and (7) of the said Act are repealed.

7. Clause 143 (b) of the said Act is amended by striking out “on the ground that the discretion was wrongly exercised” in the third and fourth lines.

8. The said Act is amended by adding thereto the following section:

Renewal of
writs of
execution
issued
before
January 1,
1985

159a. A writ of execution that was issued before the 1st day of January, 1985 may be renewed in the same manner and with the same effect as a writ of execution issued on or after that day.

9. Section 32 of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed.

10.—(1) This Act, except section 8, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Section 8 shall be deemed to have come into force on the 1st day of January, 1985. Idem

11. The short title of this Act is the *Courts of Justice Amendment Act, 1986*. Short title

Bill 161

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General

1st Reading November 27th, 1986

2nd Reading January 28th, 1987

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The position of senior judge is created for the Unified Family Court.

SECTION 2. Correction of a reference.

SECTIONS 3, 4 and 5. These amendments are complementary to recent changes to the *Criminal Code* (Canada), which now refers to "provincial court judges" rather than "magistrates".

SECTION 6. Self-explanatory.

SECTION 7. The Official Guardian's report will no longer be automatic in all divorce proceedings involving children. Instead, whenever a question concerning custody of or access to a child is before the court in proceedings under the *Divorce Act, 1985* (Canada) or the *Children's Law Reform Act*, the Official Guardian will be empowered to investigate and report to the court on matters affecting the child. The Official Guardian will determine which cases will be investigated and the nature and extent of the investigation.

SECTION 8. This section corrects an oversight in the *Courts of Justice Act, 1984*. Parts of section 27 of the *Judicature Act*, concerning appeals of orders for costs, were omitted although it was not intended to repeal them.

SECTION 9. Provides express authorization for the renewal of old writs of execution, in accordance with the procedures that have been followed since January 1, 1985.

SECTION 10. Complementary to section 7.

Bill 161

1987

**An Act to amend the
Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 39 (1) of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:

(1) The Unified Family Court shall be presided over by,

Composition
of court

- (a) a senior judge of the District Court, appointed for the Unified Family Court; or
- (b) a judge of the District Court,

who is a local judge of the High Court and is authorized under subsection (2) to exercise the jurisdiction of a judge of the Provincial Court (Family Division).

(2) Section 39 of the said Act is amended by adding thereto the following subsection:

(2a) The senior judge appointed for the Unified Family Court shall direct and supervise the sittings of the Unified Family Court and the assignment of its judicial duties.

Duties of
senior judge

2. Subsection 44 (4) of the said Act is amended by striking out “a proceeding referred to in subsection 40 (1)” in the first and second lines and inserting in lieu thereof “a proceeding under a statutory provision set out in the Schedule to this Part”.

3. Subsection 47 (1) of the said Act, as amended by the Statutes of Ontario, 1984, Chapter 55, section 213, is further amended by striking out “magistrate under the *Criminal Code* (Canada)” in the second and third lines and inserting in lieu

thereof “judge sitting in the Provincial Court (Criminal Division)”.

4.—(1) Clause 61 (1) (b) of the said Act is repealed.

(2) Subsection 61 (2) of the said Act is repealed.

5. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 64, section 3, is repealed and the following substituted therefor:

Jurisdiction

(1) When sitting in the Provincial Court (Criminal Division), a provincial judge has the powers and authority that any Act of the Parliament of Canada confers on a provincial court judge or on two or more justices of the peace.



6. The said Act is amended by adding thereto the following section:

Appeals

75a. Where no provision is made for an appeal from an order of the Provincial Court (Family Division), an appeal lies to the District Court.



7.—(1) Subsections 125 (1) and (2) of the said Act are repealed and the following substituted therefor:

Investigation
and report of
Official
Guardian
S.C. 1986,
c. 4
R.S.O. 1980,
c. 68

(1) In a proceeding under the *Divorce Act*, 1985 (Canada) or the *Children's Law Reform Act* in which a question concerning custody of or access to a child is before the court, the Official Guardian may cause an investigation to be made and may report and make recommendations to the court on all matters concerning custody of or access to the child and the child's support and education.

Idem

(2) The Official Guardian may act under subsection (1) on his or her own initiative, at the request of a court or at the request of any person.

(2) Subsection 125 (3) of the said Act is amended by striking out “divorce” in the seventh line.

(3) Subsections 125 (5), (6) and (7) of the said Act are repealed.

8. Clause 143 (b) of the said Act is amended by striking out “on the ground that the discretion was wrongly exercised” in the third and fourth lines.

9. The said Act is further amended by adding thereto the following section:

159a. A writ of execution that was issued before the 1st day of January, 1985 may be renewed in the same manner and with the same effect as a writ of execution issued on or after that day.

Renewal of
writs of
execution
issued
before
January 1,
1985

10. Section 32 of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed.

11.—(1) This Act, except section 9, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 9 shall be deemed to have come into force on the 1st day of January, 1985.

Idem

12. The short title of this Act is the *Courts of Justice Amendment Act, 1987*.

Short title

Bill 161

*(Chapter 1
Statutes of Ontario, 1987)*

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	November 27th, 1986
<i>2nd Reading</i>	January 28th, 1987
<i>3rd Reading</i>	February 2nd, 1987
<i>Royal Assent</i>	February 3rd, 1987

Bill 161

1987

**An Act to amend the
Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 39 (1) of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:

(1) The Unified Family Court shall be presided over by,

Composition
of court

(a) a senior judge of the District Court, appointed for the Unified Family Court; or

(b) a judge of the District Court,

who is a local judge of the High Court and is authorized under subsection (2) to exercise the jurisdiction of a judge of the Provincial Court (Family Division).

(2) Section 39 of the said Act is amended by adding thereto the following subsection:

(2a) The senior judge appointed for the Unified Family Court shall direct and supervise the sittings of the Unified Family Court and the assignment of its judicial duties.

Duties of
senior judge

2. Subsection 44 (4) of the said Act is amended by striking out “a proceeding referred to in subsection 40 (1)” in the first and second lines and inserting in lieu thereof “a proceeding under a statutory provision set out in the Schedule to this Part”.

3. Subsection 47 (1) of the said Act, as amended by the Statutes of Ontario, 1984, Chapter 55, section 213, is further amended by striking out “magistrate under the *Criminal Code* (Canada)” in the second and third lines and inserting in lieu

thereof “judge sitting in the Provincial Court (Criminal Division)”.

4.—(1) Clause 61 (1) (b) of the said Act is repealed.

(2) Subsection 61 (2) of the said Act is repealed.

5. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 64, section 3, is repealed and the following substituted therefor:

Jurisdiction

(1) When sitting in the Provincial Court (Criminal Division), a provincial judge has the powers and authority that any Act of the Parliament of Canada confers on a provincial court judge or on two or more justices of the peace.

6. The said Act is amended by adding thereto the following section:

Appeals

75a. Where no provision is made for an appeal from an order of the Provincial Court (Family Division), an appeal lies to the District Court.

7.—(1) Subsections 125 (1) and (2) of the said Act are repealed and the following substituted therefor:

Investigation
and report of
Official
Guardian
S.C. 1986,
c. 4
R.S.O. 1980,
c. 68

(1) In a proceeding under the *Divorce Act, 1985* (Canada) or the *Children's Law Reform Act* in which a question concerning custody of or access to a child is before the court, the Official Guardian may cause an investigation to be made and may report and make recommendations to the court on all matters concerning custody of or access to the child and the child's support and education.

Idem

(2) The Official Guardian may act under subsection (1) on his or her own initiative, at the request of a court or at the request of any person.

(2) Subsection 125 (3) of the said Act is amended by striking out “divorce” in the seventh line.

(3) Subsections 125 (5), (6) and (7) of the said Act are repealed.

8. Clause 143 (b) of the said Act is amended by striking out “on the ground that the discretion was wrongly exercised” in the third and fourth lines.

9. The said Act is further amended by adding thereto the following section:

159a. A writ of execution that was issued before the 1st day of January, 1985 may be renewed in the same manner and with the same effect as a writ of execution issued on or after that day.

Renewal of
writs of
execution
issued
before
January 1,
1985

10. Section 32 of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed.

11.—(1) This Act, except section 9, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 9 shall be deemed to have come into force on the 1st day of January, 1985.

Idem

12. The short title of this Act is the *Courts of Justice Amendment Act, 1987*.

Short title

Bill 162

An Act to provide for the Registration of Rental Accommodation Agents

Mr. Philip

1st Reading November 27th, 1986

2nd Reading

3rd Reading

Royal Assent

Bill 183

EXPLANATORY NOTE

The Bill provides for the registration of rental accommodation agents who are defined as persons who, among other things, provide information for a fee concerning the location and availability of rental accommodation. It also sets out the maximum fees that may be charged by such agents for their services and provides for the refunding of any amounts paid in excess of the maximum fee.

Bill 162

1986

An Act to provide for the Registration of Rental Accommodation Agents

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Director” means the Director of the Consumer Protection Division of the Ministry of Consumer and Commercial Relations;

“Registrar” means the Registrar of the Consumer Protection Bureau;

“rental accommodation agent” means a person who, for a fee, furnishes information concerning the location, price, description and availability of residential accommodation that may be rented, shared or sublet, or arranges for the renting, sharing or subletting of residential accommodation on behalf of another person or both.

2. The Registrar may exercise the powers and shall perform the duties conferred or imposed upon the Registrar by or under this Act under the supervision of the Director.

Duties of
Registrar

3.—(1) No person shall carry on business as a rental accommodation agent unless the person is registered by the Registrar under this Act.

Registration
required

(2) A registered rental accommodation agent shall not carry on business in a name other than the name in which the agent is registered or from a place of business other than that authorized by the registration.

Name and
place
of business

4. Sections 5 to 12, both inclusive, of the *Consumer Protection Act* (registration of itinerant sellers) apply with necessary modifications to the registration of rental accommodation agents.

Registration
R.S.O. 1980,
c. 87

Contract for
services

5.—(1) A contract for services of a rental accommodation agent shall be in the form prescribed by the regulations and shall provide that,

- (a) the rental accommodation agent may retain for administrative services not more than \$25 out of a fee paid in advance;
- (b) if, within fifteen days after the contract is entered into, the customer has not secured rental accommodation through the information or services provided by the agent, the customer shall be entitled to a refund of the portion of the fee paid in advance that exceeds \$25.

Notice

(2) A customer claiming a refund under clause (1) (b) shall give written notice to this effect to the rental accommodation agent within thirty days after the contract is entered into.

Refund

(3) A rental accommodation agent shall, within ten days of receiving a notice under subsection (2), refund the portion of the fee paid in advance that exceeds \$25.

Maximum fee

6.—(1) Where a customer secures rental accommodation through the information or services provided by the rental accommodation agent, the maximum fee to which the agent is entitled is the equivalent of one month's rent for the accommodation secured.

Idem

(2) If the accommodation referred to in subsection (1) is shared, the maximum fee shall be equivalent to the portion of one month's rent that is payable by the customer.

Notice

(3) If a customer has paid in advance a fee that exceeds the equivalent of one month's rent for the accommodation secured, the customer may claim a refund of the excess amount by giving written notice to this effect to the agent within fifteen days after the accommodation is secured.

Refund

(4) A rental accommodation agent shall, within ten days of receiving a notice under subsection (3), refund the portion of the fee paid in advance that exceeds the equivalent of one month's rent.

Failure to
refund

7. Where a rental accommodation agent, without reasonable excuse, fails to refund the excess amount required under subsection 5 (3) or 6 (4) within the time specified, the agent shall pay \$100 to the customer, in addition to the excess amount, which amounts are recoverable in any court of competent jurisdiction.

8.—(1) Any notice or order required to be given or served under this Act is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry of Consumer and Commercial Relations. Service

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing. When service
deemed
made

9.—(1) Every person who, knowingly, Offences

- (a) furnishes false information in an application under this Act or in any statement or return required to be furnished under this Act or the regulations; or
- (b) fails to comply with any order, direction or other requirement under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

(2) Every director or officer of a corporation who knowingly concurs in an offence under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both. Idem

10. The Lieutenant Governor in Council may make regulations, Regulations

- (a) governing applications for registration or renewal of registration of rental accommodation agents and prescribing terms and conditions of registration;
- (b) requiring rental accommodation agents to make returns and furnish information to the Registrar;
- (c) requiring the payment of fees on application for registration as a rental accommodation agent or for renewal of registration, and prescribing the amounts thereof;
- (d) requiring rental accommodation agents to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;

- (e) prescribing forms for the purposes of this Act and providing for their use;
- (f) prescribing the form of contracts for services of rental accommodation agents.

Commence-
ment

11. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12. The short title of this Act is the *Rental Accommodation Agents Act, 1986*.

Bill 163

An Act to repeal the Inflation Restraint Act, 1982 and the Public Sector Prices and Compensation Review Act, 1983

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading December 1st, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The repeal of these Acts is proposed because the periods of wage and price control covered by the Acts have expired. Changes in group compensation plans, implemented without following the filing procedure required under the *Public Sector Prices and Compensation Review Act, 1983*, are validated. The Inflation Restraint Board established under the *Inflation Restraint Act, 1982*, is, notwithstanding the repeal of the Act, continued in existence for the limited purpose of implementing the decision or order of a court made on a proceeding commenced before the day this repealing Act comes into force.

Bill 163

1986

**An Act to repeal the Inflation Restraint Act, 1982
and the Public Sector Prices and
Compensation Review Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Inflation Restraint Act, 1982*, being chapter 55 of the Statutes of Ontario, 1982 and the *Public Sector Prices and Compensation Review Act, 1983*, being chapter 70 of the Statutes of Ontario, 1983, are repealed. Repeals

2.—(1) No change in a group compensation plan, as defined in clause 1 (f) of the *Public Sector Prices and Compensation Review Act, 1983*, shall be invalidated by reason of non-compliance with subsection 6 (3) of that Act. No invalidity for non-compliance with filing requirements

(2) Subsection (1) applies to a change that was implemented before the coming into force of this Act. Application

3. Notwithstanding the repeal of the *Inflation Restraint Act, 1982*, by section 1 of this Act, the Inflation Restraint Board established under that Act is continued and has all the powers and jurisdiction conferred on it thereunder for the purposes only of implementing or giving effect to any order or decision of a court made on a proceeding commenced before the day this Act comes into force. Inflation Restraint Board continued for certain purposes

4. This Act comes into force on the day it receives Royal Assent. Commencement

5. The short title of this Act is the *Inflation Restraint and Public Sector Prices and Compensation Review Repeal Act, 1986*. Short title

Bill 163

*(Chapter 2
Statutes of Ontario, 1987)*

An Act to repeal the Inflation Restraint Act, 1982 and the Public Sector Prices and Compensation Review Act, 1983

The Hon. R. Nixon
Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	December 1st, 1986
<i>2nd Reading</i>	January 27th, 1987
<i>3rd Reading</i>	February 2nd, 1987
<i>Royal Assent</i>	February 3rd, 1987

Bill 163

1987

**An Act to repeal the Inflation Restraint Act, 1982
and the Public Sector Prices and
Compensation Review Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Inflation Restraint Act, 1982*, being chapter 55 of the Statutes of Ontario, 1982 and the *Public Sector Prices and Compensation Review Act, 1983*, being chapter 70 of the Statutes of Ontario, 1983, are repealed. Repeals

2.—(1) No change in a group compensation plan, as defined in clause 1 (f) of the *Public Sector Prices and Compensation Review Act, 1983*, shall be invalidated by reason of non-compliance with subsection 6 (3) of that Act. No invalidity for non-compliance with filing requirements

(2) Subsection (1) applies to a change that was implemented before the coming into force of this Act. Application

3. Notwithstanding the repeal of the *Inflation Restraint Act, 1982*, by section 1 of this Act, the Inflation Restraint Board established under that Act is continued and has all the powers and jurisdiction conferred on it thereunder for the purposes only of implementing or giving effect to any order or decision of a court made on a proceeding commenced before the day this Act comes into force. Inflation Restraint Board continued for certain purposes

4. This Act comes into force on the day it receives Royal Assent. Commencement

5. The short title of this Act is the *Inflation Restraint and Public Sector Prices and Compensation Review Repeal Act, 1987*. Short title

Bill 164

An Act to repeal the Farm Loans Act and the Farm Loans Adjustment Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading December 1st, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The repeal of these Acts is proposed since the procedures contemplated by the Acts are no longer used. Investigation does not disclose any existing farm loan associations. However, the Act provides a mechanism for dissolving any farm loan association that may subsequently be found to exist. Although there are no outstanding loans under the *Farm Loans Act*, past experience indicates that some mortgages may not have been formally discharged when the loans were repaid. Therefore, the Act provides a mechanism to discharge such mortgages.

Bill 164

1986

An Act to repeal the Farm Loans Act and the Farm Loans Adjustment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Farm Loans Act*, being chapter 154 of the Revised Statutes of Ontario, 1980, and the *Farm Loans Adjustment Act*, being chapter 155 of the Revised Statutes of Ontario, 1980, are repealed. Repeals

2. Where it appears to the Lieutenant Governor in Council that a farm loan association incorporated under the *Farm Loans Act* has ceased to operate but was not dissolved, the Lieutenant Governor in Council may by order dissolve the farm loan association and make such provision as is considered appropriate for the disposal of its property and records. Dissolution
of farm loan
associations
R.S.O. 1980,
c. 154

3. Every mortgage to secure a loan made under the *Farm Loans Act* is discharged and void. Mortgages
discharged

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment

5. The short title of this Act is the *Farm Loans and Farm Loans Adjustment Repeal Act, 1986*. Short title

Bill 164

*(Chapter 3
Statutes of Ontario, 1987)*

An Act to repeal the Farm Loans Act and the Farm Loans Adjustment Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	December 1st, 1986
<i>2nd Reading</i>	January 27th, 1987
<i>3rd Reading</i>	February 2nd, 1987
<i>Royal Assent</i>	February 3rd, 1987

Bill 164

1987

**An Act to repeal the Farm Loans Act
and the Farm Loans Adjustment Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Farm Loans Act*, being chapter 154 of the Revised Statutes of Ontario, 1980 and the *Farm Loans Adjustment Act*, being chapter 155 of the Revised Statutes of Ontario, 1980, are repealed. Repeals

2. Where it appears to the Lieutenant Governor in Council that a farm loan association incorporated under the *Farm Loans Act* has ceased to operate but was not dissolved, the Lieutenant Governor in Council may by order dissolve the farm loan association and make such provision as is considered appropriate for the disposal of its property and records. Dissolution
of farm loan
associations
R.S.O. 1980,
c. 154

3. Every mortgage to secure a loan made under the *Farm Loans Act* is discharged and void. Mortgages
discharged

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment

5. The short title of this Act is the *Farm Loans and Farm Loans Adjustment Repeal Act, 1987*. Short title

Bill 165

An Act to amend the Child and Family Services Act, 1984 and certain other Acts in relation to Adoption Disclosure

The Hon. J. Sweeney
Minister of Community and Social Services

1st Reading December 1st, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill rewrites the provisions of the *Child and Family Services Act, 1984* that deal with the protection and disclosure of information relating to adoptions and makes related amendments to two other Acts.

Some of the Bill's major features are:

1. Adult adopted persons and their birth relatives will be able to obtain identifying information about each other, by mutual consent, through the adoption disclosure register (formerly known as the voluntary disclosure register).
2. A framework for the disclosure of non-identifying information is also provided. ("Identifying information" and "non-identifying information" will be defined in regulations.)
3. Counselling is to be made available when non-identifying information is disclosed, and is mandatory before identifying information is disclosed.
4. The position of Registrar of Adoption Information is created to oversee the disclosure of information and the provision of related services.
5. The Registrar may disclose identifying or non-identifying information to any person if someone's health, safety or welfare requires it.
6. On the request of an adult adopted person, the Registrar will search for specific birth relatives.
7. Information may be withheld if its disclosure might result in serious physical or emotional harm to any person.
8. Persons who are refused information are entitled to have the Child and Family Services Review Board (formerly known as the Children's Services Review Board) hold a hearing into the matter.
9. The Bill also provides for the disclosure of information relating to out of province adoptions.

SECTIONS 1 and 10 of the Bill. The Board's name is changed from "Children's Services Review Board" to "Child and Family Services Review Board".

SECTIONS 2, 3, 6 and 9 of the Bill. Consequential to section 7.

SECTIONS 4, 5 and 8 of the Bill. The term "adoptive parent" will be used throughout, rather than "adopting parent".

SECTION 7 of the Bill. Sections 155 and 156 of the Act are re-enacted with minor changes.

Section 157 of the Act deals with the position and duties of the Registrar of Adoption Information.

Section 158 of the Act makes it clear that all adoptions, including those completed before the current amendments become law, are covered.

Section 158a of the Act, which protects the confidentiality of adoption information once an adoption order has been made, is an expanded and revised version of former section 157. It also contains an exclusion of the *Freedom of Information and Protection of Privacy Act, 1986* (Bill 34).

Section 158b of the Act deals with the disclosure of non-identifying information. The persons described in subsection (3) may apply to the Registrar, a children's aid society or a licensee for non-identifying information. When the relevant information is disclosed, the applicant will also have an opportunity to receive counselling.

Section 158c of the Act (based in part on former section 158) deals with the adoption disclosure register, which is the mechanism for the disclosure of identifying information. The persons described in subsection (2) may apply to be named in the register. When an adult adopted person and one of his or her birth relatives are both named in the register, the Registrar will ensure that they receive counselling. Following this counselling, if both consent to an exchange of information, the Registrar will disclose the relevant identifying information, directly or through an appropriate society. (In the case of a person named in the register who lives outside Ontario, disclosure may also take place through an appropriate agency or individual in the jurisdiction where the person lives.) Counselling is mandatory at this stage.

If one of the two persons named in the register has died, cannot readily be found or apparently lacks capacity, disclosure to the other person can take place nevertheless.

Section 158d of the Act authorizes the Registrar to disclose identifying or non-identifying information to any person if someone's health, safety or welfare requires it.

Section 158e of the Act deals with searches. Adult adopted persons may have the Registrar search on their behalf for specific birth relatives. The Registrar will make a discreet and reasonable search and, if the search is successful, will ascertain whether the birth relative wishes to be named in the register in order to permit the exchange of identifying information.

If the search reveals that the birth relative has died or apparently lacks capacity, or if the search is unsuccessful, the Registrar is authorized to disclose identifying information to the adopted person, following the procedures described in section 158c, as if both were named in the register.

The Act will also contain authority to make regulations extending section 158e to birth relatives who wish to have searches made for adopted persons.

Section 158f of the Act deals with the disclosure of information that is kept by the Ministry or a society or licensee but relates to out of province adoptions. The persons described in subsection (2) may apply for non-identifying information of this kind. Identifying information may be forwarded to a child protection or child placement agency in the appropriate jurisdiction for disclosure in accordance with the laws of that jurisdiction.

Section 158g of the Act provides that identifying or non-identifying information may be withheld if its disclosure might result in serious physical or emotional harm to any person. In that case, the applicant must be notified of the reason for the refusal and the right to a review under section 158h.

Section 158h of the Act deals with the review of decisions to withhold information. Persons who are refused information are entitled to have the Child and Family Services Review Board hold a hearing into the matter. The Board may order the disclosure of all or part of the information or may confirm the original decision.

Section 158i of the Act protects the confidentiality of identifying information that becomes part of the record in a court proceeding.

Section 158j of the Act provides that fees and expenses may be charged for the services provided by the Registrar and by societies and licensees.

SECTION 11 of the Bill. Authority is provided to make regulations defining "identifying information" and "non-identifying information", to prescribe additional classes of persons who may request non-identifying information, to prescribe classes of persons who may

have the Registrar search on their behalf for adopted persons, to prescribe review procedures and additional powers and duties of the Board, and to prescribe fees and expenses that may be charged.

SECTION 12 of the Bill. Consequential to sections 1 and 10.

SECTION 13 of the Bill. Consequential amendments are made to the *Vital Statistics Act* to authorize the Registrar General to release an extract of information from the original birth registration, as described in proposed subsection 158c (6) of the *Child and Family Services Act, 1984* (set out in section 7 of the Bill).

Bill 165**1986**

**An Act to amend
the Child and Family Services Act, 1984
and certain other Acts in relation
to Adoption Disclosure**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 5 of subsection 3 (1) of the *Child and Family Services Act, 1984*, being chapter 55, is repealed and the following substituted therefor:

5. "Board" means the Child and Family Services Review Board continued under Part IX (Licensing).

2. Clause 130 (1) (a) of the said Act is repealed.

3. Subclause 131 (4) (a) (iii) of the said Act is repealed and the following substituted therefor:

(iii) to obtain non-identifying information under section 158b and to participate in the adoption disclosure register maintained under clause 157 (2) (a).

4. Clause 146 (2) (b) of the said Act is amended by striking out "adopting" in the second line and inserting in lieu thereof "adoptive".

5.—(1) Subsection 152 (2) of the said Act is amended by striking out "adopting" wherever it occurs and inserting in lieu thereof in each instance "adoptive".

(2) Subsection 152 (3) of the said Act is amended by striking out "adopting" in the second line and in the third line and inserting in lieu thereof in each instance "adoptive".

6. Section 154 of the said Act is amended by adding thereto the following subsection:

Definition (2) In this section, "birth parent" has the same meaning as in section 158b.

7. Sections 155, 156, 157 and 158 of the said Act are repealed and the following substituted therefor:

Parent
to be
informed
on request

155. At the request of a person whose consent to an adoption was required under clause 131 (2) (a) or a predecessor of that provision and was given or was dispensed with, any society or the licensee that placed the child for adoption shall inform the person whether an order has been made for the child's adoption.

Definition

156.—(1) In this section, "court" includes the District Court.

Papers to
be sealed
up

(2) Subject to subsections (3) and 158c (6), the documents used upon an application for an adoption order under this Part or a predecessor of this Part shall be sealed up together with a certified copy of the original order and filed in the office of the court by the proper officer of the court, and shall not be open for inspection except upon an order of the court or the written direction of the Registrar of Adoption Information appointed under subsection 157 (1).

Transmission
of order

(3) Within thirty days after an adoption order is made under this Part, the proper officer of the court shall cause a sufficient number of certified copies of it to be made, under the seal of the proper certifying authority, and shall transmit,

- (a) the original order to the adoptive parent;
- (b) one certified copy to the Registrar of Adoption Information;
- (c) one certified copy to the Registrar General under the *Vital Statistics Act*, or, if the adopted child was born outside Ontario, two certified copies;
- (d) if the adopted child is an Indian, one certified copy to the Registrar under the *Indian Act* (Canada).

R.S.O. 1980,
c. 524

R.S.C. 1970,
c. 1-6

REGISTRAR OF ADOPTION INFORMATION

Registrar
of Adoption
Information

157.—(1) The Minister may appoint an employee of the Ministry as Registrar of Adoption Information for the purposes of this section and sections 158 to 158j.

Duties of
Registrar

(2) The Registrar shall,

- (a) maintain a register for the purposes of section 158c;
- (b) ensure that counselling is provided to persons who receive identifying information from the Registrar;
- (c) ensure that counselling is made available to persons who receive non-identifying information from the Registrar, who are or may wish to be named in the register, or who are concerned that they may be affected by the disclosure of identifying information;
- (d) have searches conducted in accordance with subsection 158e (3).

(3) The Registrar may, in writing, authorize other employees of the Ministry to exercise any or all of the Registrar's powers and perform any or all of the Registrar's duties.

Delegation
of Registrar's
powers and
duties

(4) The counselling referred to in this section and in sections 158b (disclosure of non-identifying information), 158c (adoption disclosure register) and 158f (persons adopted outside Ontario) shall be provided by persons who are, in the opinion of the Registrar or a local director, qualified to do so.

Counselling

158. Sections 158a to 158j apply whether the adoption order was made before or after section 7 of the *Adoption Disclosure Statute Law Amendment Act, 1986* comes into force.

Application
of sections
158a to 158j
1986, c.-

CONFIDENTIALITY OF ADOPTION RECORDS

158a.—(1) Despite any other Act, after an adoption order is made, no person shall inspect, remove, alter or permit the inspection, removal or alteration of information that relates to the adoption and is kept,

Adoption
information
confidential

- (a) by the Ministry;
- (b) by a society or licensee; or
- (c) in the adoption disclosure register maintained under clause 157 (2) (a),

or disclose or permit the disclosure of such information that the person obtained from the records of the Ministry, including the register, or from the records of a society or licensee.

(2) Subsection (1) does not apply to,

Exceptions

- (a) the disclosure of information by a person who obtained it before the adoption order was made, if the information was obtained in accordance with this Act and the regulations or with the consent of the person to whom the information relates;
- (b) the disclosure of non-identifying information in accordance with section 158b or 158f (persons adopted outside Ontario);
- (c) the disclosure of identifying information in accordance with section 158c (adoption disclosure register) or 158f;
- (d) the disclosure of identifying or non-identifying information in accordance with section 158d (disclosure to protect health, safety or welfare);
- (e) the disclosure of information in accordance with an order of the Board under subsection 158h (10);
- (f) the routine maintenance and updating of records by the Ministry or a society or licensee;
- (g) the release by the Registrar of Adoption Information of a copy of an adoption order to,
 - (i) the adoptive parent,
 - (ii) the adopted person or any other person if, in the Registrar's opinion, it is desirable that he or she receive a copy of the adoption order, or
 - (iii) a governmental authority that requires the copy to issue a birth certificate, passport or visa;
- (h) the inspection, by a person named in subsection (3), of information kept by the Ministry or a society or licensee, or the disclosure of such information to such a person;
- (i) the disclosure of information to a person who is engaged in research, in accordance with subsection (4).

Persons
entitled
to share
information

(3) Clause (2) (h) applies in respect of:

1. The Minister.

2. The Registrar of Adoption Information.
3. A Director, or an employee of the Ministry who has a Director's written authority.
4. A local director, or an employee of a society who has the local director's written authority.
5. A licensee who is an individual, a director of a licensee that is a corporation, or an employee of a licensee who has the licensee's written authority.
6. A child protection or child placement agency that is recognized in another jurisdiction.

(4) A person who is engaged in research may, with the written approval of the Registrar of Adoption Information or, in the case of information kept by a society, with the local director's written approval, inspect and use information that relates to adoptions, but shall not,

Research

(a) use or communicate the information for any purpose except research, academic pursuits or the compilation of statistical data; or

(b) communicate any identifying information.

(5) The *Freedom of Information and Protection of Privacy Act, 1986* does not apply to information that relates to an adoption.

Non-application of 1986, c.-

(6) Subsection (5) does not come into force until a day to be named by proclamation of the Lieutenant Governor.

Coming into force of subs. (5)

DISCLOSURE OF NON-IDENTIFYING INFORMATION

158b.—(1) In this section and in sections 158c to 158j, "Registrar" means the Registrar of Adoption Information appointed under subsection 157 (1).

Definition

(2) In this section and in sections 158c, 158d and 158e, "adopted person" means a person who was adopted in Ontario;

Idem

"birth grandparent" means any parent of a birth parent;

"birth parent" means an adopted person's biological mother or father, and includes a person whose consent to another person's adoption was required under clause 131 (2) (a) or

a predecessor of that provision and was given or was dispensed with;

“birth sibling” means a child of the same birth parent as an adopted person, and includes the birth parent’s adopted child and a person whom the birth parent has demonstrated a settled intention to treat as a child of his or her family;

“register” means the register maintained under clause 157 (2) (a).

Who may
request
information

(3) Each of the following persons may make a request to the Registrar for non-identifying information that relates to an adoption:

1. The adopted person, if he or she has attained the age of eighteen years or has the written consent of an adoptive parent.
2. An adoptive parent.
3. A birth parent or birth grandparent.
4. A birth sibling who has attained the age of eighteen years.
5. A person who is a member of a prescribed class, if the person has the written consent of the adopted person and the adopted person would be entitled to make the request or, if not, the written consent of an adoptive parent.
6. Any other person if, in the Registrar’s opinion, it is desirable that the person be able to request non-identifying information as if he or she were a birth parent.

Disclosure
of
information

(4) When a person makes a request under subsection (3), the Registrar shall do one of the following:

1. Disclose to the person all the relevant non-identifying information in the Ministry’s possession that relates to the adoption.
2. Forward that information to a society or licensee for disclosure to the person in accordance with subsection (6).
3. If the person lives outside Ontario, disclose that information to a child protection or child placement

agency that is recognized in the jurisdiction where the person lives, or to an individual in that jurisdiction who, in the Registrar's opinion, is qualified to provide counselling.

4. Refer the person's request to a society or licensee that has the relevant information.

(5) When the Registrar discloses information under subsection (4), he or she shall also ensure that counselling is made available to the person receiving the information. Counselling

(6) When the Registrar forwards information to a society or licensee under subsection (4), the society or licensee shall disclose it to the person who requested it and shall also make counselling available to him or her. Information forwarded to society or licensee

(7) Subsections (3), (4), (5) and (6) also apply with necessary modifications to societies and licensees. Societies and licensees

(8) A person who receives information under subsection (4) or (6) may disclose it to any person. Further disclosure

ADOPTION DISCLOSURE REGISTER

158c.—(1) After an adoption order is made in Ontario, identifying information that relates to the adoption may be disclosed in accordance with this section or section 158d (disclosure to protect health, safety or welfare). Disclosure of identifying information

(2) Each of the following persons may apply to a society or to the Registrar to be named in the register: Who may apply to be named in register

1. An adopted person who has attained the age of eighteen years.
2. The birth parent or birth grandparent of an adopted person.
3. The birth sibling of an adopted person, if the birth sibling has attained the age of eighteen years.
4. Any other person if, in the Registrar's opinion, it is desirable that the person be named in the register as if he or she were a birth parent.

(3) A society that receives an application shall promptly send it to the Registrar. Society to forward application

Entry in
register, etc.

(4) On receiving an application, the Registrar shall enter the applicant's name in the register and then make a search to determine whether the adopted person and his or her birth parent, birth grandparent or birth sibling or a person described in paragraph 4 of subsection (2) are both named in the register.

Further
consents

(5) If the Registrar determines that an adopted person and his or her birth parent, birth grandparent or birth sibling or a person described in paragraph 4 of subsection (2) are both named in the register, the Registrar shall, after ensuring that each of them receives counselling, give both persons an opportunity to consent in writing to the disclosure of information in accordance with subsections (8) and (9).

Registrar
to compile
relevant
material

(6) If both persons give the further consent referred to in subsection (5), the Registrar shall compile the material described in paragraphs 1, 2 and 3:

1. All relevant identifying information from the records of the Ministry and of societies and licensees.
2. If the adopted person requests it, copies of the documents referred to in subsection 156 (2) (court file).
3. If the adopted person requests it, an extract of information from his or her original birth registration kept by the Registrar General under the *Vital Statistics Act*.

R.S.O. 1980,
c. 524

Idem

(7) The compiled material shall include only information that pertains to the adopted person or the other person named in the register and shall not include a copy of the adopted person's original birth registration.

Disclosure
by Registrar

(8) The Registrar shall ensure that the compiled material is promptly disclosed to the adopted person and also to the other person named in the register, separately and in accordance with one or more of the methods described in subsection (9).

Idem

(9) The Registrar may,

- (a) make the compiled material available to the adopted person or the other person named in the register, or to both, first ensuring that each person to whom the material is made available receives counselling;

- (b) forward the compiled material to a society that he or she considers appropriate to undertake disclosure to the adopted person or the other person named in the register, or to both;
- (c) if the adopted person or the other person named in the register lives outside Ontario, forward the compiled material to a child protection or child placement agency that is recognized in the jurisdiction where the person lives, or to an individual in that jurisdiction, but only if the Registrar is satisfied that the person will receive appropriate counselling.

(10) If a person whose further consent to disclosure would be required is named in the register but has died, cannot readily be found, or appears to lack capacity as defined in clause 4 (1) (a), the Registrar may disclose information to the other person named in the register in accordance with subsection (9) without the first-named person's further consent.

Exception:
further
consent

(11) A society that receives compiled material under clause (9) (b) shall promptly make it available to the adopted person or the other person named in the register, or both, as the case may be, first ensuring that each person to whom the material is made available receives counselling.

Duty of
society

(12) If the society's records contain identifying information that pertains to the adopted person or the other person named in the register and that is not included in the compiled material, the society shall disclose the information in the same manner as the compiled material.

Additional
information

(13) A society shall provide counselling to persons who receive identifying information from the society, and shall make counselling available to persons who are named or may wish to be named in the register or who are concerned that they may be affected by the disclosure of identifying information.

Duty of
society

(14) A person who is named in the register and receives information under subsection (9), (10), (11) or (12) may disclose it to any person.

Further
disclosure

DISCLOSURE TO PROTECT HEALTH, SAFETY OR WELFARE

158d.—(1) The Registrar may disclose identifying or non-identifying information that relates to an adoption to any person if, in the Registrar's opinion, the health, safety or welfare of that person or of any other person requires the disclosure.

Disclosure
to protect
health,
safety or
welfare

Application
of subs.(1)

(2) Subsection (1) applies whether the adoption order was made in Ontario or elsewhere.

Further
disclosure

(3) A person who receives information under this section in the course of his or her professional or official duties may disclose it further only for the purpose of protecting a person's health, safety or welfare.

Idem

(4) A person who receives information under this section otherwise than as described in subsection (3) may disclose it to any person.

SEARCHES

Request for
search by
Registrar

158e.—(1) An adopted person who has attained the age of eighteen years may ask the Registrar to search on his or her behalf for a specific person in one of the following categories:

1. A person whose consent to the adoption was required under clause 131 (2) (a) or a predecessor of that provision and was given or was dispensed with.
2. A person who has acknowledged that he is the adopted person's biological father.
3. A parent of a person described in paragraph 1 or 2.
4. A birth sibling of the adopted person who has also attained the age of eighteen years.

Idem,
member
of prescribed
class

(2) A person who is a member of a prescribed class may ask the Registrar to search on his or her behalf for a specific adopted person who has attained the age of eighteen years.

Duty of
Registrar

(3) The Registrar shall have a discreet and reasonable search made for the person mentioned in the request, and shall seek to ascertain whether that person wishes to be named in the register.

Exception re
disclosure

(4) If the Registrar discovers that the person mentioned in the request has died or appears to lack capacity as defined in clause 4 (1) (a), or if the person cannot be found despite a discreet and reasonable search, the Registrar may disclose information to the person who made the request, in accordance with section 158c, as if both persons were named in the register.

PERSONS ADOPTED OUTSIDE ONTARIO

158f.—(1) In this section,

Definitions

“adopted person” means a person who was adopted outside Ontario;

“birth parent” means an adopted person’s biological mother or father, or a person whose consent to another person’s adoption was given or dispensed with;

“birth grandparent” means any parent of a birth parent;

“birth sibling” means a child of the same birth parent as an adopted person, and includes the birth parent’s adopted child and a person whom the birth parent has demonstrated a settled intention to treat as a child of his or her family;

“out of province adoption” means an adoption where the adoption order was made outside Ontario.

(2) Each of the following persons may make a request to the Registrar for non-identifying information that relates to an out of province adoption:

Who may
request
non-
identifying
information

1. The adopted person, if he or she has attained the age of eighteen years or has the written consent of an adoptive parent.
2. An adoptive parent.
3. A birth parent or birth grandparent.
4. A birth sibling who has attained the age of eighteen years.
5. Any other person if, in the opinion of the Registrar or local director, it is desirable that the person receive non-identifying information as if he or she were a birth parent.

(3) When a person makes a request under subsection (2), the Registrar shall disclose to the person all the relevant non-identifying information in the Ministry’s possession that relates to the adoption.

Disclosure
of
information

(4) When the Registrar discloses information under subsection (3), he or she shall also ensure that counselling is made available to the person receiving the information, to the extent that it is feasible to do so.

Counselling

Societies
and
licensees

(5) Subsections (2), (3) and (4) also apply with necessary modifications to societies and licensees.

Disclosure
of identifying
information
to agency
outside
Ontario

(6) If identifying information that relates to an out of province adoption is kept by the Ministry or by a society, the Registrar may provide the information to a child protection or child placement agency that is recognized in another jurisdiction, for disclosure in accordance with the laws of that jurisdiction.

Further
disclosure

(7) A person who receives information under this section may disclose it to any person.

REFUSAL OF INFORMATION

Refusal to
disclose non-
identifying
information

158g.—(1) The disclosure of non-identifying information that a person would otherwise be entitled to receive under section 158b or 158f may be refused,

- (a) by the Registrar if, in his or her opinion, the disclosure might result in serious physical or emotional harm to any person;
- (b) by a society if, in the local director's opinion, the disclosure might result in serious physical or emotional harm to any person;
- (c) by a licensee if, in the Registrar's opinion, the disclosure might result in serious physical or emotional harm to any person.

Refusal
to disclose
identifying
information

(2) The disclosure of identifying information that a person would otherwise be entitled to receive under section 158c may be refused by the Registrar or by a society if, in the Registrar's opinion, the disclosure might result in serious physical or emotional harm to any person.

Notice of
refusal

(3) When the disclosure of information is refused under this section, the Registrar or local director, as the case may be, shall promptly give the person seeking the information notice of the refusal, the reason for it and the person's right to a review under section 158h.

REVIEW

Review by
Child and
Family
Services
Review
Board

158h.—(1) A person who is refused information in accordance with section 158g may, within twenty days of receiving notice of the decision, request that the Board review the matter.

- (2) The Board shall conduct a review with respect to the request, following the prescribed procedures. Duty of Board
- (3) Unless the parties to a review agree otherwise, the Board shall hold a hearing. Hearings
- (4) The parties to a review are, Parties
- (a) the person who requested the review;
- (b) the person who gave notice of the decision to withhold the information.
- (5) At any stage in a review, the Board shall add the Registrar as a party on his or her request. Registrar to be added
- (6) The Board may examine the information without disclosing it to the person who requested the review. Information need not be disclosed in course of review
- (7) The Board may receive any evidence and submissions without disclosing them to the person who requested the review, and when the Board holds a hearing it may hear any part of the evidence and submissions in that person's absence. Idem, evidence and submissions
- (8) When the Board acts under subsection (6) or (7), the lawyer or agent of the person who requested the review is nevertheless entitled to examine the information and to be present, to cross-examine witnesses and to make submissions, or to examine the evidence and submissions and respond to them, as the case may be, on condition that the lawyer or agent undertakes not to reveal the information, evidence and submissions to his or her client. Lawyer or agent not to be excluded
- (9) The Board shall complete its review and make a decision within ninety days of receiving notice of the request, unless the parties consent to a longer period. Time for decision
- (10) After conducting a review, the Board may make an order requiring the Registrar, society or licensee, as the case may be, to disclose all or part of the information to the person, or may make an order confirming the refusal. Board's decision
- (11) The Board may include conditions in its order. Conditions
- (12) Whether the Board holds a hearing or not, it shall give its decision in writing, with reasons. Written decision with reasons

INFORMATION IN COURT FILE

Application

158i.—(1) This section applies to court proceedings that relate to decisions made by the Board under section 158h or by the Registrar, local directors or licensees under sections 158a, 158b, 158c, 158d, 158e, 158f and 158g.

Examination of identifying information in court file

(2) Unless the court orders otherwise, only the court may examine identifying information that is in the court file and comes from the records of the Ministry or of a society or licensee.

Disclosure of information

(3) No person shall, without the court's permission, disclose identifying information described in subsection (2) that he or she obtained from the court file.

FEES AND EXPENSES

Fees and expenses

158j. The Registrar, societies and licensees may charge the prescribed fees for services provided under clause 158a (2) (g) and sections 158b, 158c, 158e and 158f, and may charge up to the prescribed amounts for expenses incurred in providing services under sections 158b, 158c, 158e and 158f.

8. Clause 159 (f) of the said Act is amended by striking out “adopting” in the second line and inserting in lieu thereof “adoptive”.

9. Clause 163 (2) (d) of the said Act is repealed and the following substituted therefor:

(d) in the adoption disclosure register maintained under clause 157 (2) (a) of Part VII.

10.—(1) The title preceding section 190 of the said Act is repealed and the following substituted therefor:

CHILD AND FAMILY SERVICES REVIEW BOARD

(2) Subsection 190 (1) of the said Act is repealed and the following substituted therefor:

Child and Family Services Review Board

(1) The Board known as the “Children's Services Review Board” is continued under the name “Child and Family Services Review Board”.

Idem

(1a) The Board is composed of the prescribed number of members appointed by the Lieutenant Governor in Council and has the powers and duties given to it by this Act and the regulations.

11.—(1) Clause 203 (e) of the said Act is repealed and the following substituted therefor:

- (e) defining “identifying information” and “non-identifying information” for the purposes of sections 157 to 158i;
- (ea) prescribing classes of persons for the purposes of paragraph 5 of subsection 158b (3) (persons who may request non-identifying information);
- (eb) prescribing classes of persons for the purposes of subsection 158e (2) (search by Registrar);
- (ec) prescribing additional powers, duties and procedures for the Board under section 158h;
- (ed) prescribing fees and amounts for the purposes of section 158j.

(2) Section 203 of the said Act is amended by adding thereto the following subsection:

(2) Regulations made under clause (1) (ed) may prescribe different fees and amounts for the Registrar, for societies and for licensees. Idem

12. Clause 1 (c) of the *Day Nurseries Act*, being chapter 111 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 55, section 215, is repealed and the following substituted therefor:

- (c) “Board” means the Child and Family Services Review Board continued under Part IX (Licensing) of the *Child and Family Services Act, 1984*.

1984, c. 55

13.—(1) The *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

24a. Although an adopted person’s original birth registration has been sealed pursuant to subsection 24 (2), the Registrar General shall, at the request of the Registrar of Adoption Information appointed under the *Child and Family Services Act, 1984*, provide the Registrar with the prescribed information from the original birth registration.

Extract of
information
to be
provided to
Registrar
of Adoption
Information
1984, c. 55

(2) Section 55 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 9, section 17, is further amended by adding thereto the following clause:

- (v) prescribing information for the purposes of section 24a (extract of information to be provided to Registrar of Adoption Information).

**Commence-
ment**

14. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

15. The short title of this Act is the *Adoption Disclosure Statute Law Amendment Act, 1986*.

Bill 165

**An Act to amend
the Child and Family Services Act, 1984
and certain other Acts in relation
to Adoption Disclosure**

The Hon. J. Sweeney
Minister of Community and Social Services

1st Reading December 1st, 1986

2nd Reading January 13th, 1987

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The Bill rewrites the provisions of the *Child and Family Services Act, 1984* that deal with the protection and disclosure of information relating to adoptions and makes related amendments to two other Acts.

Some of the Bill's major features are:

1. Adult adopted persons and their birth relatives will be able to obtain identifying information about each other, by mutual consent, through the adoption disclosure register (formerly known as the voluntary disclosure register).
2. A framework for the disclosure of non-identifying information is also provided. ("Identifying information" and "non-identifying information" are defined in subsection 158b (2) of the Act and will be further defined in regulations.)
3. Counselling is to be made available when non-identifying information is disclosed, and is mandatory before identifying information is disclosed.
4. The position of Registrar of Adoption Information is created to oversee the disclosure of information and the provision of related services.
5. The Registrar may disclose identifying or non-identifying information to any person if someone's health, safety or welfare requires it.
6. On the request of an adult adopted person, the Registrar will search for specific birth relatives.
7. Information may be withheld if its disclosure might result in serious physical or emotional harm to any person.
8. Persons who are refused information are entitled to have the Child and Family Services Review Board (formerly known as the Children's Services Review Board) hold a hearing into the matter.
9. The Bill also provides for the disclosure of information relating to out of province adoptions.

SECTIONS 1 and 10 of the Bill. The Board's name is changed from "Children's Services Review Board" to "Child and Family Services Review Board".

SECTIONS 2, 3, 6 and 9 of the Bill. Consequential to section 7.

SECTIONS 4, 5 and 8 of the Bill. The term "adoptive parent" will be used throughout, rather than "adopting parent".

SECTION 7 of the Bill. Sections 155 and 156 of the Act are re-enacted with minor changes.

Section 157 of the Act deals with the position and duties of the Registrar of Adoption Information.

Section 158 of the Act makes it clear that all adoptions, including those completed before the current amendments become law, are covered.

Section 158a of the Act, which protects the confidentiality of adoption information once an adoption order has been made, is an expanded and revised version of former section 157. It also contains an exclusion of the *Freedom of Information and Protection of Privacy Act, 1986* (Bill 34).

Section 158b of the Act deals with the disclosure of non-identifying information. The persons described in subsection (4) may apply to the Registrar, a children's aid society or a licensee for non-identifying information. When the relevant information is disclosed, the applicant will also have an opportunity to receive counselling.

Section 158c of the Act (based in part on former section 158) deals with the adoption disclosure register, which is the mechanism for the disclosure of identifying information. The persons described in subsection (2) may apply to be named in the register. When an adult adopted person and one of his or her birth relatives are both named in the register, the Registrar will ensure that they receive counselling. Following this counselling, if both consent to an exchange of information, the Registrar will disclose the relevant identifying information, directly or through an appropriate society. (In the case of a person named in the register who lives outside Ontario, disclosure may also take place through an appropriate agency or individual in the jurisdiction where the person lives.) Counselling is mandatory at this stage.

If one of the two persons named in the register has died, cannot be found or apparently lacks capacity, disclosure to the other person can take place nevertheless.

Section 158d of the Act authorizes the Registrar to disclose identifying or non-identifying information to any person if someone's health, safety or welfare requires it.

Section 158e of the Act deals with searches. Adult adopted persons may have the Registrar search on their behalf for specific birth relatives. The Registrar will make a discreet and reasonable search and, if the search is successful, will ascertain whether the birth relative wishes to be named in the register in order to permit the exchange of identifying information.

If the search reveals that the birth relative has died or apparently lacks capacity, or if the search is unsuccessful, the Registrar is authorized to disclose identifying information to the adopted person, following the procedures described in section 158c, as if both were named in the register.

The Act will also contain authority to make regulations extending section 158e to birth relatives who wish to have searches made for adopted persons.

Section 158f of the Act deals with the disclosure of information that is kept by the Ministry or a society or licensee but relates to out of province adoptions. The persons described in subsection (2) may apply for non-identifying information of this kind. Identifying information may be forwarded to a child protection or child placement agency in the appropriate jurisdiction for disclosure in accordance with the laws of that jurisdiction.

Section 158g of the Act provides that identifying or non-identifying information may be withheld if its disclosure might result in serious physical or emotional harm to any person. In that case, the applicant must be notified of the reason for the refusal and the right to a review under section 158h.

Section 158h of the Act deals with the review of decisions to withhold information. Persons who are refused information are entitled to have the Child and Family Services Review Board hold a hearing into the matter. The Board may order the disclosure of all or part of the information or may confirm the original decision.

Section 158i of the Act protects the confidentiality of identifying information that becomes part of the record in a court proceeding.

Section 158j of the Act provides that fees and expenses may be charged for the services provided by the Registrar and by societies and licensees.

SECTION 11 of the Bill. Authority is provided to make regulations further defining "identifying information" and "non-identifying information", to prescribe additional classes of persons who may request non-identifying information, to prescribe classes of

persons who may have the Registrar search on their behalf for adopted persons, to prescribe review procedures and additional powers and duties of the Board, and to prescribe fees and expenses that may be charged.

SECTION 12 of the Bill. Consequential to sections 1 and 10.

SECTION 13 of the Bill. Consequential amendments are made to the *Vital Statistics Act* to authorize the Registrar General to release an extract of information from the original birth registration, as described in proposed subsection 158c (6) of the *Child and Family Services Act, 1984* (set out in section 7 of the Bill).

Bill 165**1987**

**An Act to amend
the Child and Family Services Act, 1984
and certain other Acts in relation
to Adoption Disclosure**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 5 of subsection 3 (1) of the *Child and Family Services Act, 1984*, being chapter 55, is repealed and the following substituted therefor:

5. "Board" means the Child and Family Services Review Board continued under Part IX (Licensing).

2. Clause 130 (1) (a) of the said Act is repealed.

3. Subclause 131 (4) (a) (iii) of the said Act is repealed and the following substituted therefor:

(iii) to obtain non-identifying information under section 158b and to participate in the adoption disclosure register maintained under clause 157 (2) (a).

4. Clause 146 (2) (b) of the said Act is amended by striking out "adopting" in the second line and inserting in lieu thereof "adoptive".

5.—(1) Subsection 152 (2) of the said Act is amended by striking out "adopting" wherever it occurs and inserting in lieu thereof in each instance "adoptive".

(2) Subsection 152 (3) of the said Act is amended by striking out "adopting" in the second line and in the third line and inserting in lieu thereof in each instance "adoptive".

6. Section 154 of the said Act is amended by adding thereto the following subsection:

Definition

(2) In this section, "birth parent" has the same meaning as in section 158b.

7. Sections 155, 156, 157 and 158 of the said Act are repealed and the following substituted therefor:

Parent to be informed on request

155. At the request of a person whose consent to an adoption was required under clause 131 (2) (a) or a predecessor of that provision and was given or was dispensed with, any society or the licensee that placed the child for adoption shall inform the person whether an order has been made for the child's adoption.

Definition

156.—(1) In this section, "court" includes the District Court.

Papers to be sealed up

(2) Subject to subsections (3) and 158c (6), the documents used upon an application for an adoption order under this Part or a predecessor of this Part shall be sealed up together with a certified copy of the original order and filed in the office of the court by the proper officer of the court, and shall not be open for inspection except upon an order of the court or the written direction of the Registrar of Adoption Information appointed under subsection 157 (1).

Transmission of order

(3) Within thirty days after an adoption order is made under this Part, the proper officer of the court shall cause a sufficient number of certified copies of it to be made, under the seal of the proper certifying authority, and shall transmit,

- (a) the original order to the adoptive parent;
- (b) one certified copy to the Registrar of Adoption Information;
- (c) one certified copy to the Registrar General under the *Vital Statistics Act*, or, if the adopted child was born outside Ontario, two certified copies;
- (d) if the adopted child is an Indian, one certified copy to the Registrar under the *Indian Act* (Canada).

R.S.O. 1980,
c. 524

R.S.C. 1970,
c. 1-6

REGISTRAR OF ADOPTION INFORMATION

Registrar of Adoption Information

157.—(1) The Minister may appoint an employee of the Ministry as Registrar of Adoption Information for the purposes of this section and sections 158 to 158j.

Duties of Registrar

(2) The Registrar shall,

- (a) maintain a register for the purposes of section 158c;
- (b) ensure that counselling is provided to persons who receive identifying information from the Registrar;
- (c) ensure that counselling is made available to persons who receive non-identifying information from the Registrar, who are or may wish to be named in the register, or who are concerned that they may be affected by the disclosure of identifying information;
- (d) have searches conducted in accordance with subsection 158e (3).

(3) The Registrar may, in writing, authorize other employees of the Ministry to exercise any or all of the Registrar's powers and perform any or all of the Registrar's duties.

Delegation
of Registrar's
powers and
duties

(4) The counselling referred to in this section and in sections 158b (disclosure of non-identifying information), 158c (adoption disclosure register) and 158f (persons adopted outside Ontario) shall be provided by persons who are, in the opinion of the Registrar or a local director, qualified to do so.

Counselling

158. Sections 158a to 158j apply whether the adoption order was made before or after section 7 of the *Adoption Disclosure Statute Law Amendment Act, 1987* comes into force.

Application
of sections
158a to 158j
1987, c. ...

CONFIDENTIALITY OF ADOPTION RECORDS

158a.—(1) Despite any other Act, after an adoption order is made, no person shall inspect, remove, alter or permit the inspection, removal or alteration of information that relates to the adoption and is kept,

Adoption
information
confidential

- (a) by the Ministry;
- (b) by a society or licensee; or
- (c) in the adoption disclosure register maintained under clause 157 (2) (a),

or disclose or permit the disclosure of such information that the person obtained from the records of the Ministry, including the register, or from the records of a society or licensee.

(2) Subsection (1) does not apply to,

Exceptions

- (a) the disclosure of information by a person who obtained it before the adoption order was made, if the information was obtained in accordance with this Act and the regulations or with the consent of the person to whom the information relates;
- (b) the disclosure of non-identifying information in accordance with section 158b or 158f (persons adopted outside Ontario);
- (c) the disclosure of identifying information in accordance with section 158c (adoption disclosure register) or 158f;
- (d) the disclosure of identifying or non-identifying information in accordance with section 158d (disclosure to protect health, safety or welfare);
- (e) the disclosure of information in accordance with an order of the Board under subsection 158h (10);
- (f) the routine maintenance and updating of records by the Ministry or a society or licensee;
- (g) the release by the Registrar of Adoption Information of a copy of an adoption order to,
 - (i) the adoptive parent,
 - (ii) the adopted person or any other person if, in the Registrar's opinion, it is desirable that he or she receive a copy of the adoption order, or
 - (iii) a governmental authority that requires the copy to issue a birth certificate, passport or visa;
- (h) the inspection, by a person named in subsection (3), of information kept by the Ministry or a society or licensee, or the disclosure of such information to such a person;
- (i) the disclosure of information to a person who is engaged in research, in accordance with subsection (4).

Persons
entitled
to share
information

(3) Clause (2) (h) applies in respect of:

1. The Minister.

2. The Registrar of Adoption Information.
3. A Director, or an employee of the Ministry who has a Director's written authority.
4. A local director, or an employee of a society who has the local director's written authority.
5. A licensee who is an individual, a director of a licensee that is a corporation, or an employee of a licensee who has the licensee's written authority.
6. A child protection or child placement agency that is recognized in another jurisdiction.

(4) A person who is engaged in research may, with the written approval of the Registrar of Adoption Information or, in the case of information kept by a society, with the local director's written approval, inspect and use information that relates to adoptions, but shall not,

Research

- (a) use or communicate the information for any purpose except research, academic pursuits or the compilation of statistical data; or
- (b) communicate any identifying information.

(5) The *Freedom of Information and Protection of Privacy Act*, 1987 does not apply to information that relates to an adoption.

Non-application of 1987, c. ...

(6) Subsection (5) does not come into force until a day to be named by proclamation of the Lieutenant Governor.

Coming into force of subs. (5)

DISCLOSURE OF NON-IDENTIFYING INFORMATION

158b.—(1) In this section and in sections 158c to 158j, "Registrar" means the Registrar of Adoption Information appointed under subsection 157 (1).

Definition

(2) In this section and in sections 157, 158a and 158c to 158j,

Idem

"identifying information" means information whose disclosure, alone or in combination with other information, will in the circumstances reveal the identity of the person to whom it relates;

"non-identifying information" means information that is not identifying information.

Idem

(3) In this section and in sections 158c, 158d and 158e,

“adopted person” means a person who was adopted in Ontario;

“birth grandparent” means any parent of a birth parent;

“birth parent” means an adopted person’s biological mother or father, and includes a person whose consent to another person’s adoption was required under clause 131 (2) (a) or a predecessor of that provision and was given or was dispensed with;

“birth sibling” means a child of the same birth parent as an adopted person, and includes the birth parent’s adopted child and a person whom the birth parent has demonstrated a settled intention to treat as a child of his or her family;

“register” means the register maintained under clause 157 (2) (a).

Who may
request
information

(4) Each of the following persons may make a request to the Registrar for non-identifying information that relates to an adoption:

1. The adopted person, if he or she has attained the age of eighteen years or has the written consent of an adoptive parent.
2. An adoptive parent.
3. A birth parent or birth grandparent.
4. A birth sibling who has attained the age of eighteen years.
5. A person who is a member of a prescribed class, if the person has the written consent of the adopted person and the adopted person would be entitled to make the request or, if not, the written consent of an adoptive parent.
6. Any other person if, in the Registrar’s opinion, it is desirable that the person be able to request non-identifying information as if he or she were a birth parent.

Disclosure
of
information

(5) When a person makes a request under subsection (4), the Registrar shall do one of the following:

1. Disclose to the person all the relevant non-identifying information in the Ministry's possession that relates to the adoption.
2. Forward that information to a society or licensee for disclosure to the person in accordance with subsection (7).
3. If the person lives outside Ontario, disclose that information to a child protection or child placement agency that is recognized in the jurisdiction where the person lives, or to an individual in that jurisdiction who, in the Registrar's opinion, is qualified to provide counselling.
4. Refer the person's request to a society or licensee that has the relevant information.

(6) When the Registrar discloses information under subsection (5), he or she shall also ensure that counselling is made available to the person receiving the information. Counselling

(7) When the Registrar forwards information to a society or licensee under subsection (5), the society or licensee shall disclose it to the person who requested it and shall also make counselling available to him or her. Information forwarded to society or licensee

(8) Subsections (4), (5), (6) and (7) also apply with necessary modifications to societies and licensees. Societies and licensees

(9) A person who receives information under subsection (5) or (7) may disclose it to any person. Further disclosure

ADOPTION DISCLOSURE REGISTER

158c.—(1) After an adoption order is made in Ontario, identifying information that relates to the adoption may be disclosed in accordance with this section or section 158d (disclosure to protect health, safety or welfare). Disclosure of identifying information

(2) Each of the following persons may apply to a society or to the Registrar to be named in the register: Who may apply to be named in register

1. An adopted person who has attained the age of eighteen years.
2. The birth parent or birth grandparent of an adopted person.

3. The birth sibling of an adopted person, if the birth sibling has attained the age of eighteen years.
4. Any other person if, in the Registrar's opinion, it is desirable that the person be named in the register as if he or she were a birth parent.

Society
to forward
application

(3) A society that receives an application shall promptly send it to the Registrar.

Entry in
register, etc.

(4) On receiving an application, the Registrar shall enter the applicant's name in the register and then make a search to determine whether the adopted person and his or her birth parent, birth grandparent or birth sibling or a person described in paragraph 4 of subsection (2) are both named in the register.

Further
consents

(5) If the Registrar determines that an adopted person and his or her birth parent, birth grandparent or birth sibling or a person described in paragraph 4 of subsection (2) are both named in the register, the Registrar shall, after ensuring that each of them receives counselling, give both persons an opportunity to consent in writing to the disclosure of information in accordance with subsections (8) and (9).

Registrar
to compile
relevant
material

(6) If both persons give the further consent referred to in subsection (5), the Registrar shall compile the material described in paragraphs 1, 2 and 3:

1. All relevant identifying information from the records of the Ministry and of societies and licensees.
2. If the adopted person requests it, copies of the documents referred to in subsection 156 (2) (court file).
3. If the adopted person requests it, an extract of information from his or her original birth registration kept by the Registrar General under the *Vital Statistics Act*.

R.S.O. 1980,
c. 524

Idem

(7) The compiled material shall include only information that pertains to the adopted person or the other person named in the register and shall not include a copy of the adopted person's original birth registration.

Disclosure
by Registrar

(8) The Registrar shall ensure that the compiled material is promptly disclosed to the adopted person and also to the other person named in the register, separately and in accordance with one or more of the methods described in subsection (9).

(9) The Registrar may,

Idem

- (a) make the compiled material available to the adopted person or the other person named in the register, or to both, first ensuring that each person to whom the material is made available receives counselling;
- (b) forward the compiled material to a society that he or she considers appropriate to undertake disclosure to the adopted person or the other person named in the register, or to both;
- (c) if the adopted person or the other person named in the register lives outside Ontario, forward the compiled material to a child protection or child placement agency that is recognized in the jurisdiction where the person lives, or to an individual in that jurisdiction, but only if the Registrar is satisfied that the person will receive appropriate counselling.

➡ (10) If a person whose further consent to disclosure would be required is named in the register but has died, cannot be found despite a discreet and reasonable search that has continued for at least six months, or appears to lack capacity as defined in clause 4 (1) (a), the Registrar may disclose information to the other person named in the register in accordance with subsection (9) without the first-named person's further consent. ➡

Exception:
further
consent

(11) A society that receives compiled material under clause (9) (b) shall promptly make it available to the adopted person or the other person named in the register, or both, as the case may be, first ensuring that each person to whom the material is made available receives counselling.

Duty of
society

(12) If the society's records contain identifying information that pertains to the adopted person or the other person named in the register and that is not included in the compiled material, the society shall disclose the information in the same manner as the compiled material.

Additional
information

(13) A society shall provide counselling to persons who receive identifying information from the society, and shall make counselling available to persons who are named or may wish to be named in the register or who are concerned that they may be affected by the disclosure of identifying information.

Duty of
society

Further
disclosure

(14) A person who is named in the register and receives information under subsection (9), (10), (11) or (12) may disclose it to any person.

DISCLOSURE TO PROTECT HEALTH, SAFETY OR WELFARE

Disclosure
to protect
health,
safety or
welfare

158d.—(1) The Registrar may disclose identifying or non-identifying information that relates to an adoption to any person if, in the Registrar's opinion, the health, safety or welfare of that person or of any other person requires the disclosure.

Application
of subs.(1)

(2) Subsection (1) applies whether the adoption order was made in Ontario or elsewhere.

Further
disclosure

(3) A person who receives information under this section in the course of his or her professional or official duties may disclose it further only for the purpose of protecting a person's health, safety or welfare.

Idem

(4) A person who receives information under this section otherwise than as described in subsection (3) may disclose it to any person.

SEARCHES

Request for
search by
Registrar

158e.—(1) An adopted person who has attained the age of eighteen years may ask the Registrar to search on his or her behalf for a specific person in one of the following categories:

1. A person whose consent to the adoption was required under clause 131 (2) (a) or a predecessor of that provision and was given or was dispensed with.
2. A person who has acknowledged that he is the adopted person's biological father.
3. A parent of a person described in paragraph 1 or 2.
4. A birth sibling of the adopted person who has also attained the age of eighteen years.

Idem,
member
of prescribed
class

(2) A person who is a member of a prescribed class may ask the Registrar to search on his or her behalf for a specific adopted person who has attained the age of eighteen years.

Duty of
Registrar

(3) The Registrar shall have a discreet and reasonable search made for the person mentioned in the request, and

shall seek to ascertain whether that person wishes to be named in the register.

(4) If the Registrar discovers that the person mentioned in the request has died or appears to lack capacity as defined in clause 4 (1) (a), or if the person cannot be found despite a discreet and reasonable search that has continued for at least six months, the Registrar may disclose information to the person who made the request, in accordance with section 158c, as if both persons were named in the register.

Exception re
disclosure

PERSONS ADOPTED OUTSIDE ONTARIO

158f.—(1) In this section,

Definitions

“adopted person” means a person who was adopted outside Ontario;

“birth parent” means an adopted person’s biological mother or father, or a person whose consent to another person’s adoption was given or dispensed with;

“birth grandparent” means any parent of a birth parent;

“birth sibling” means a child of the same birth parent as an adopted person, and includes the birth parent’s adopted child and a person whom the birth parent has demonstrated a settled intention to treat as a child of his or her family;

“out of province adoption” means an adoption where the adoption order was made outside Ontario.

(2) Each of the following persons may make a request to the Registrar for non-identifying information that relates to an out of province adoption:

Who may
request
non-
identifying
information

1. The adopted person, if he or she has attained the age of eighteen years or has the written consent of an adoptive parent.
2. An adoptive parent.
3. A birth parent or birth grandparent.
4. A birth sibling who has attained the age of eighteen years.
5. Any other person if, in the opinion of the Registrar or local director, it is desirable that the person

receive non-identifying information as if he or she were a birth parent.

Disclosure
of
information

(3) When a person makes a request under subsection (2), the Registrar shall disclose to the person all the relevant non-identifying information in the Ministry's possession that relates to the adoption.

Counselling

(4) When the Registrar discloses information under subsection (3), he or she shall also ensure that counselling is made available to the person receiving the information, to the extent that it is feasible to do so.

Societies
and
licensees

(5) Subsections (2), (3) and (4) also apply with necessary modifications to societies and licensees.

Disclosure
of identifying
information
to agency
outside
Ontario

(6) If identifying information that relates to an out of province adoption is kept by the Ministry or by a society, the Registrar may provide the information to a child protection or child placement agency that is recognized in another jurisdiction, for disclosure in accordance with the laws of that jurisdiction.

Further
disclosure

(7) A person who receives information under this section may disclose it to any person.

REFUSAL OF INFORMATION

Refusal to
disclose non-
identifying
information

158g.—(1) The disclosure of non-identifying information that a person would otherwise be entitled to receive under section 158b or 158f may be refused,

- (a) by the Registrar if, in his or her opinion, the disclosure might result in serious physical or emotional harm to any person;
- (b) by a society if, in the local director's opinion, the disclosure might result in serious physical or emotional harm to any person;
- (c) by a licensee if, in the Registrar's opinion, the disclosure might result in serious physical or emotional harm to any person.

Refusal
to disclose
identifying
information

(2) The disclosure of identifying information that a person would otherwise be entitled to receive under section 158c may be refused by the Registrar or by a society if, in the Registrar's opinion, the disclosure might result in serious physical or emotional harm to any person.

(3) When the disclosure of information is refused under this section, the Registrar or local director, as the case may be, shall promptly give the person seeking the information notice of the refusal, the reason for it and the person's right to a review under section 158h.

Notice of
refusal

REVIEW

158h.—(1) A person who is refused information in accordance with section 158g may, within twenty days of receiving notice of the decision, request that the Board review the matter.

Review by
Child and
Family
Services
Review
Board

(2) The Board shall conduct a review with respect to the request, following the prescribed procedures.

Duty of
Board

(3) Unless the parties to a review agree otherwise, the Board shall hold a hearing.

Hearings

(4) The parties to a review are,

Parties

(a) the person who requested the review;

(b) the person who gave notice of the decision to withhold the information.

(5) At any stage in a review, the Board shall add the Registrar as a party on his or her request.

Registrar
to be added

(6) The Board may examine the information without disclosing it to the person who requested the review.

Information
need not be
disclosed in
course of
review

(7) The Board may receive any evidence and submissions without disclosing them to the person who requested the review, and when the Board holds a hearing it may hear any part of the evidence and submissions in that person's absence.

Idem,
evidence
and
submissions

(8) When the Board acts under subsection (6) or (7), the lawyer or agent of the person who requested the review is nevertheless entitled to examine the information and to be present, to cross-examine witnesses and to make submissions, or to examine the evidence and submissions and respond to them, as the case may be, on condition that the lawyer or agent undertakes not to reveal the information, evidence and submissions to his or her client.

Lawyer or
agent not
to be
excluded

(9) The Board shall complete its review and make a decision within ninety days of receiving notice of the request, unless the parties consent to a longer period.

Time for
decision

- Board's decision (10) After conducting a review, the Board may make an order requiring the Registrar, society or licensee, as the case may be, to disclose all or part of the information to the person, or may make an order confirming the refusal.
- Conditions (11) The Board may include conditions in its order.
- Written decision with reasons (12) Whether the Board holds a hearing or not, it shall give its decision in writing, with reasons.

INFORMATION IN COURT FILE

- Application **158i.**—(1) This section applies to court proceedings that relate to decisions made by the Board under section 158h or by the Registrar, local directors or licensees under sections 158a, 158b, 158c, 158d, 158e, 158f and 158g.
- Examination of identifying information in court file (2) Unless the court orders otherwise, only the court may examine identifying information that is in the court file and comes from the records of the Ministry or of a society or licensee.
- Disclosure of information (3) No person shall, without the court's permission, disclose identifying information described in subsection (2) that he or she obtained from the court file.

FEEES AND EXPENSES

- Fees and expenses **158j.** The Registrar, societies and licensees may charge the prescribed fees for services provided under clause 158a (2) (g) and sections 158b, 158c, 158e and 158f, and may charge up to the prescribed amounts for expenses incurred in providing services under sections 158b, 158c, 158e and 158f.

8. Clause 159 (f) of the said Act is amended by striking out "adopting" in the second line and inserting in lieu thereof "adoptive".

9. Clause 163 (2) (d) of the said Act is repealed and the following substituted therefor:

- (d) in the adoption disclosure register maintained under clause 157 (2) (a) of Part VII.

10.—(1) The title preceding section 190 of the said Act is repealed and the following substituted therefor:

CHILD AND FAMILY SERVICES REVIEW BOARD

(2) Subsection 190 (1) of the said Act is repealed and the following substituted therefor:

(1) The Board known as the "Children's Services Review Board" is continued under the name "Child and Family Services Review Board".

Child and
Family
Services
Review
Board

(1a) The Board is composed of the prescribed number of members appointed by the Lieutenant Governor in Council and has the powers and duties given to it by this Act and the regulations.

Idem

11.—(1) Clause 203 (e) of the said Act is repealed and the following substituted therefor:

(e) further defining "identifying information" and "non-identifying information" for the purposes of sections 157 to 158j;

(ea) prescribing classes of persons for the purposes of paragraph 5 of subsection 158b (4) (persons who may request non-identifying information);

(eb) prescribing classes of persons for the purposes of subsection 158e (2) (search by Registrar);

(ec) prescribing additional powers, duties and procedures for the Board under section 158h;

(ed) prescribing fees and amounts for the purposes of section 158j.

(2) Section 203 of the said Act is amended by adding thereto the following subsection:

(2) Regulations made under clause (1) (ed) may prescribe different fees and amounts for the Registrar, for societies and for licensees.

Idem

12. Clause 1 (c) of the *Day Nurseries Act*, being chapter 111 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 55, section 215, is repealed and the following substituted therefor:

(c) "Board" means the Child and Family Services Review Board continued under Part IX (Licensing) of the *Child and Family Services Act*, 1984.

1984, c. 55

13.—(1) The *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Extract of
information
to be
provided to
Registrar
of Adoption
Information
1984, c. 55

24a. Although an adopted person's original birth registration has been sealed pursuant to subsection 24 (2), the Registrar General shall, at the request of the Registrar of Adoption Information appointed under the *Child and Family Services Act, 1984*, provide the Registrar with the prescribed information from the original birth registration.

(2) Section 55 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 9, section 17, is further amended by adding thereto the following clause:

- (v) prescribing information for the purposes of section 24a (extract of information to be provided to Registrar of Adoption Information).

Commence-
ment

14. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

15. The short title of this Act is the *Adoption Disclosure Statute Law Amendment Act, 1987*.

Bill 165

*(Chapter 4
Statutes of Ontario, 1987)*

**An Act to amend
the Child and Family Services Act, 1984
and certain other Acts in relation
to Adoption Disclosure**

The Hon. J. Sweeney
Minister of Community and Social Services

<i>1st Reading</i>	December 1st, 1986
<i>2nd Reading</i>	January 13th, 1987
<i>3rd Reading</i>	January 26th, 1987
<i>Royal Assent</i>	February 3rd, 1987

Bill 165**1987**

**An Act to amend
the Child and Family Services Act, 1984
and certain other Acts in relation
to Adoption Disclosure**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 5 of subsection 3 (1) of the *Child and Family Services Act, 1984*, being chapter 55, is repealed and the following substituted therefor:

5. "Board" means the Child and Family Services Review Board continued under Part IX (Licensing).

2. Clause 130 (1) (a) of the said Act is repealed.

3. Subclause 131 (4) (a) (iii) of the said Act is repealed and the following substituted therefor:

(iii) to obtain non-identifying information under section 158b and to participate in the adoption disclosure register maintained under clause 157 (2) (a).

4. Clause 146 (2) (b) of the said Act is amended by striking out "adopting" in the second line and inserting in lieu thereof "adoptive".

5.—(1) Subsection 152 (2) of the said Act is amended by striking out "adopting" wherever it occurs and inserting in lieu thereof in each instance "adoptive".

(2) Subsection 152 (3) of the said Act is amended by striking out "adopting" in the second line and in the third line and inserting in lieu thereof in each instance "adoptive".

6. Section 154 of the said Act is amended by adding thereto the following subsection:

Definition

(2) In this section, "birth parent" has the same meaning as in section 158b.

7. Sections 155, 156, 157 and 158 of the said Act are repealed and the following substituted therefor:

Parent
to be
informed
on request

155. At the request of a person whose consent to an adoption was required under clause 131 (2) (a) or a predecessor of that provision and was given or was dispensed with, any society or the licensee that placed the child for adoption shall inform the person whether an order has been made for the child's adoption.

Definition

156.—(1) In this section, "court" includes the District Court.

Papers to
be sealed
up

(2) Subject to subsections (3) and 158c (6), the documents used upon an application for an adoption order under this Part or a predecessor of this Part shall be sealed up together with a certified copy of the original order and filed in the office of the court by the proper officer of the court, and shall not be open for inspection except upon an order of the court or the written direction of the Registrar of Adoption Information appointed under subsection 157 (1).

Transmission
of order

(3) Within thirty days after an adoption order is made under this Part, the proper officer of the court shall cause a sufficient number of certified copies of it to be made, under the seal of the proper certifying authority, and shall transmit,

- (a) the original order to the adoptive parent;
- (b) one certified copy to the Registrar of Adoption Information;
- (c) one certified copy to the Registrar General under the *Vital Statistics Act*, or, if the adopted child was born outside Ontario, two certified copies;
- (d) if the adopted child is an Indian, one certified copy to the Registrar under the *Indian Act* (Canada).

R.S.O. 1980,
c. 524

R.S.C. 1970,
c. 1-6

REGISTRAR OF ADOPTION INFORMATION

Registrar
of Adoption
Information

157.—(1) The Minister may appoint an employee of the Ministry as Registrar of Adoption Information for the purposes of this section and sections 158 to 158j.

Duties of
Registrar

(2) The Registrar shall,

- (a) maintain a register for the purposes of section 158c;
- (b) ensure that counselling is provided to persons who receive identifying information from the Registrar;
- (c) ensure that counselling is made available to persons who receive non-identifying information from the Registrar, who are or may wish to be named in the register, or who are concerned that they may be affected by the disclosure of identifying information;
- (d) have searches conducted in accordance with subsection 158e (3).

(3) The Registrar may, in writing, authorize other employees of the Ministry to exercise any or all of the Registrar's powers and perform any or all of the Registrar's duties.

Delegation
of Registrar's
powers and
duties

(4) The counselling referred to in this section and in sections 158b (disclosure of non-identifying information), 158c (adoption disclosure register) and 158f (persons adopted outside Ontario) shall be provided by persons who are, in the opinion of the Registrar or a local director, qualified to do so.

Counselling

158. Sections 158a to 158j apply whether the adoption order was made before or after section 7 of the *Adoption Disclosure Statute Law Amendment Act, 1987* comes into force.

Application
of sections
158a to 158j
1987, c. 4

CONFIDENTIALITY OF ADOPTION RECORDS

158a.—(1) Despite any other Act, after an adoption order is made, no person shall inspect, remove, alter or permit the inspection, removal or alteration of information that relates to the adoption and is kept,

Adoption
information
confidential

- (a) by the Ministry;
- (b) by a society or licensee; or
- (c) in the adoption disclosure register maintained under clause 157 (2) (a),

or disclose or permit the disclosure of such information that the person obtained from the records of the Ministry, including the register, or from the records of a society or licensee.

(2) Subsection (1) does not apply to,

Exceptions

- (a) the disclosure of information by a person who obtained it before the adoption order was made, if the information was obtained in accordance with this Act and the regulations or with the consent of the person to whom the information relates;
- (b) the disclosure of non-identifying information in accordance with section 158b or 158f (persons adopted outside Ontario);
- (c) the disclosure of identifying information in accordance with section 158c (adoption disclosure register) or 158f;
- (d) the disclosure of identifying or non-identifying information in accordance with section 158d (disclosure to protect health, safety or welfare);
- (e) the disclosure of information in accordance with an order of the Board under subsection 158h (10);
- (f) the routine maintenance and updating of records by the Ministry or a society or licensee;
- (g) the release by the Registrar of Adoption Information of a copy of an adoption order to,
 - (i) the adoptive parent,
 - (ii) the adopted person or any other person if, in the Registrar's opinion, it is desirable that he or she receive a copy of the adoption order, or
 - (iii) a governmental authority that requires the copy to issue a birth certificate, passport or visa;
- (h) the inspection, by a person named in subsection (3), of information kept by the Ministry or a society or licensee, or the disclosure of such information to such a person;
- (i) the disclosure of information to a person who is engaged in research, in accordance with subsection (4).

Persons
entitled
to share
information

(3) Clause (2) (h) applies in respect of:

1. The Minister.

2. The Registrar of Adoption Information.
3. A Director, or an employee of the Ministry who has a Director's written authority.
4. A local director, or an employee of a society who has the local director's written authority.
5. A licensee who is an individual, a director of a licensee that is a corporation, or an employee of a licensee who has the licensee's written authority.
6. A child protection or child placement agency that is recognized in another jurisdiction.

(4) A person who is engaged in research may, with the written approval of the Registrar of Adoption Information or, in the case of information kept by a society, with the local director's written approval, inspect and use information that relates to adoptions, but shall not,

Research

- (a) use or communicate the information for any purpose except research, academic pursuits or the compilation of statistical data; or
- (b) communicate any identifying information.

(5) The *Freedom of Information and Protection of Privacy Act, 1987* does not apply to information that relates to an adoption.

Non-application of 1987, c. ...

(6) Subsection (5) does not come into force until a day to be named by proclamation of the Lieutenant Governor.

Coming into force of subs. (5)

DISCLOSURE OF NON-IDENTIFYING INFORMATION

158b.—(1) In this section and in sections 158c to 158j, “Registrar” means the Registrar of Adoption Information appointed under subsection 157 (1).

Definition

(2) In this section and in sections 157, 158a and 158c to 158j,

Idem

“identifying information” means information whose disclosure, alone or in combination with other information, will in the circumstances reveal the identity of the person to whom it relates;

“non-identifying information” means information that is not identifying information.

Idem

(3) In this section and in sections 158c, 158d and 158e,

“adopted person” means a person who was adopted in Ontario;

“birth grandparent” means any parent of a birth parent;

“birth parent” means an adopted person’s biological mother or father, and includes a person whose consent to another person’s adoption was required under clause 131 (2) (a) or a predecessor of that provision and was given or was dispensed with;

“birth sibling” means a child of the same birth parent as an adopted person, and includes the birth parent’s adopted child and a person whom the birth parent has demonstrated a settled intention to treat as a child of his or her family;

“register” means the register maintained under clause 157 (2) (a).

Who may
request
information

(4) Each of the following persons may make a request to the Registrar for non-identifying information that relates to an adoption:

1. The adopted person, if he or she has attained the age of eighteen years or has the written consent of an adoptive parent.
2. An adoptive parent.
3. A birth parent or birth grandparent.
4. A birth sibling who has attained the age of eighteen years.
5. A person who is a member of a prescribed class, if the person has the written consent of the adopted person and the adopted person would be entitled to make the request or, if not, the written consent of an adoptive parent.
6. Any other person if, in the Registrar’s opinion, it is desirable that the person be able to request non-identifying information as if he or she were a birth parent.

Disclosure
of
information

(5) When a person makes a request under subsection (4), the Registrar shall do one of the following:

1. Disclose to the person all the relevant non-identifying information in the Ministry's possession that relates to the adoption.
2. Forward that information to a society or licensee for disclosure to the person in accordance with subsection (7).
3. If the person lives outside Ontario, disclose that information to a child protection or child placement agency that is recognized in the jurisdiction where the person lives, or to an individual in that jurisdiction who, in the Registrar's opinion, is qualified to provide counselling.
4. Refer the person's request to a society or licensee that has the relevant information.

(6) When the Registrar discloses information under subsection (5), he or she shall also ensure that counselling is made available to the person receiving the information. Counselling

(7) When the Registrar forwards information to a society or licensee under subsection (5), the society or licensee shall disclose it to the person who requested it and shall also make counselling available to him or her. Information forwarded to society or licensee

(8) Subsections (4), (5), (6) and (7) also apply with necessary modifications to societies and licensees. Societies and licensees

(9) A person who receives information under subsection (5) or (7) may disclose it to any person. Further disclosure

ADOPTION DISCLOSURE REGISTER

158c.—(1) After an adoption order is made in Ontario, identifying information that relates to the adoption may be disclosed in accordance with this section or section 158d (disclosure to protect health, safety or welfare). Disclosure of identifying information

(2) Each of the following persons may apply to a society or to the Registrar to be named in the register: Who may apply to be named in register

1. An adopted person who has attained the age of eighteen years.
2. The birth parent or birth grandparent of an adopted person.

3. The birth sibling of an adopted person, if the birth sibling has attained the age of eighteen years.
4. Any other person if, in the Registrar's opinion, it is desirable that the person be named in the register as if he or she were a birth parent.

Society
to forward
application

(3) A society that receives an application shall promptly send it to the Registrar.

Entry in
register, etc.

(4) On receiving an application, the Registrar shall enter the applicant's name in the register and then make a search to determine whether the adopted person and his or her birth parent, birth grandparent or birth sibling or a person described in paragraph 4 of subsection (2) are both named in the register.

Further
consents

(5) If the Registrar determines that an adopted person and his or her birth parent, birth grandparent or birth sibling or a person described in paragraph 4 of subsection (2) are both named in the register, the Registrar shall, after ensuring that each of them receives counselling, give both persons an opportunity to consent in writing to the disclosure of information in accordance with subsections (8) and (9).

Registrar
to compile
relevant
material

(6) If both persons give the further consent referred to in subsection (5), the Registrar shall compile the material described in paragraphs 1, 2 and 3:

1. All relevant identifying information from the records of the Ministry and of societies and licensees.
2. If the adopted person requests it, copies of the documents referred to in subsection 156 (2) (court file).
3. If the adopted person requests it, an extract of information from his or her original birth registration kept by the Registrar General under the *Vital Statistics Act*.

R.S.O. 1980,
c. 524

Idem

(7) The compiled material shall include only information that pertains to the adopted person or the other person named in the register and shall not include a copy of the adopted person's original birth registration.

Disclosure
by Registrar

(8) The Registrar shall ensure that the compiled material is promptly disclosed to the adopted person and also to the other person named in the register, separately and in accordance with one or more of the methods described in subsection (9).

(9) The Registrar may,

Idem

- (a) make the compiled material available to the adopted person or the other person named in the register, or to both, first ensuring that each person to whom the material is made available receives counselling;
- (b) forward the compiled material to a society that he or she considers appropriate to undertake disclosure to the adopted person or the other person named in the register, or to both;
- (c) if the adopted person or the other person named in the register lives outside Ontario, forward the compiled material to a child protection or child placement agency that is recognized in the jurisdiction where the person lives, or to an individual in that jurisdiction, but only if the Registrar is satisfied that the person will receive appropriate counselling.

(10) If a person whose further consent to disclosure would be required is named in the register but has died, cannot be found despite a discreet and reasonable search that has continued for at least six months, or appears to lack capacity as defined in clause 4 (1) (a), the Registrar may disclose information to the other person named in the register in accordance with subsection (9) without the first-named person's further consent.

Exception:
further
consent

(11) A society that receives compiled material under clause (9) (b) shall promptly make it available to the adopted person or the other person named in the register, or both, as the case may be, first ensuring that each person to whom the material is made available receives counselling.

Duty of
society

(12) If the society's records contain identifying information that pertains to the adopted person or the other person named in the register and that is not included in the compiled material, the society shall disclose the information in the same manner as the compiled material.

Additional
information

(13) A society shall provide counselling to persons who receive identifying information from the society, and shall make counselling available to persons who are named or may wish to be named in the register or who are concerned that they may be affected by the disclosure of identifying information.

Duty of
society

Further
disclosure

(14) A person who is named in the register and receives information under subsection (9), (10), (11) or (12) may disclose it to any person.

DISCLOSURE TO PROTECT HEALTH, SAFETY OR WELFARE

Disclosure
to protect
health,
safety or
welfare

158d.—(1) The Registrar may disclose identifying or non-identifying information that relates to an adoption to any person if, in the Registrar's opinion, the health, safety or welfare of that person or of any other person requires the disclosure.

Application
of subs.(1)

(2) Subsection (1) applies whether the adoption order was made in Ontario or elsewhere.

Further
disclosure

(3) A person who receives information under this section in the course of his or her professional or official duties may disclose it further only for the purpose of protecting a person's health, safety or welfare.

Idem

(4) A person who receives information under this section otherwise than as described in subsection (3) may disclose it to any person.

SEARCHES

Request for
search by
Registrar

158e.—(1) An adopted person who has attained the age of eighteen years may ask the Registrar to search on his or her behalf for a specific person in one of the following categories:

1. A person whose consent to the adoption was required under clause 131 (2) (a) or a predecessor of that provision and was given or was dispensed with.
2. A person who has acknowledged that he is the adopted person's biological father.
3. A parent of a person described in paragraph 1 or 2.
4. A birth sibling of the adopted person who has also attained the age of eighteen years.

Idem,
member
of prescribed
class

(2) A person who is a member of a prescribed class may ask the Registrar to search on his or her behalf for a specific adopted person who has attained the age of eighteen years.

Duty of
Registrar

(3) The Registrar shall have a discreet and reasonable search made for the person mentioned in the request, and

shall seek to ascertain whether that person wishes to be named in the register.

(4) If the Registrar discovers that the person mentioned in the request has died or appears to lack capacity as defined in clause 4 (1) (a), or if the person cannot be found despite a discreet and reasonable search that has continued for at least six months, the Registrar may disclose information to the person who made the request, in accordance with section 158c, as if both persons were named in the register.

Exception re
disclosure

PERSONS ADOPTED OUTSIDE ONTARIO

158f.—(1) In this section,

Definitions

“adopted person” means a person who was adopted outside Ontario;

“birth parent” means an adopted person’s biological mother or father, or a person whose consent to another person’s adoption was given or dispensed with;

“birth grandparent” means any parent of a birth parent;

“birth sibling” means a child of the same birth parent as an adopted person, and includes the birth parent’s adopted child and a person whom the birth parent has demonstrated a settled intention to treat as a child of his or her family;

“out of province adoption” means an adoption where the adoption order was made outside Ontario.

(2) Each of the following persons may make a request to the Registrar for non-identifying information that relates to an out of province adoption:

Who may
request
non-
identifying
information

1. The adopted person, if he or she has attained the age of eighteen years or has the written consent of an adoptive parent.
2. An adoptive parent.
3. A birth parent or birth grandparent.
4. A birth sibling who has attained the age of eighteen years.
5. Any other person if, in the opinion of the Registrar or local director, it is desirable that the person

receive non-identifying information as if he or she were a birth parent.

Disclosure
of
information

(3) When a person makes a request under subsection (2), the Registrar shall disclose to the person all the relevant non-identifying information in the Ministry's possession that relates to the adoption.

Counselling

(4) When the Registrar discloses information under subsection (3), he or she shall also ensure that counselling is made available to the person receiving the information, to the extent that it is feasible to do so.

Societies
and
licensees

(5) Subsections (2), (3) and (4) also apply with necessary modifications to societies and licensees.

Disclosure
of identifying
information
to agency
outside
Ontario

(6) If identifying information that relates to an out of province adoption is kept by the Ministry or by a society, the Registrar may provide the information to a child protection or child placement agency that is recognized in another jurisdiction, for disclosure in accordance with the laws of that jurisdiction.

Further
disclosure

(7) A person who receives information under this section may disclose it to any person.

REFUSAL OF INFORMATION

Refusal to
disclose non-
identifying
information

158g.—(1) The disclosure of non-identifying information that a person would otherwise be entitled to receive under section 158b or 158f may be refused,

- (a) by the Registrar if, in his or her opinion, the disclosure might result in serious physical or emotional harm to any person;
- (b) by a society if, in the local director's opinion, the disclosure might result in serious physical or emotional harm to any person;
- (c) by a licensee if, in the Registrar's opinion, the disclosure might result in serious physical or emotional harm to any person.

Refusal
to disclose
identifying
information

(2) The disclosure of identifying information that a person would otherwise be entitled to receive under section 158c may be refused by the Registrar or by a society if, in the Registrar's opinion, the disclosure might result in serious physical or emotional harm to any person.

(3) When the disclosure of information is refused under this section, the Registrar or local director, as the case may be, shall promptly give the person seeking the information notice of the refusal, the reason for it and the person's right to a review under section 158h.

Notice of refusal

REVIEW

158h.—(1) A person who is refused information in accordance with section 158g may, within twenty days of receiving notice of the decision, request that the Board review the matter.

Review by Child and Family Services Review Board

(2) The Board shall conduct a review with respect to the request, following the prescribed procedures.

Duty of Board

(3) Unless the parties to a review agree otherwise, the Board shall hold a hearing.

Hearings

(4) The parties to a review are,

Parties

- (a) the person who requested the review;
- (b) the person who gave notice of the decision to withhold the information.

(5) At any stage in a review, the Board shall add the Registrar as a party on his or her request.

Registrar to be added

(6) The Board may examine the information without disclosing it to the person who requested the review.

Information need not be disclosed in course of review

(7) The Board may receive any evidence and submissions without disclosing them to the person who requested the review, and when the Board holds a hearing it may hear any part of the evidence and submissions in that person's absence.

Idem, evidence and submissions

(8) When the Board acts under subsection (6) or (7), the lawyer or agent of the person who requested the review is nevertheless entitled to examine the information and to be present, to cross-examine witnesses and to make submissions, or to examine the evidence and submissions and respond to them, as the case may be, on condition that the lawyer or agent undertakes not to reveal the information, evidence and submissions to his or her client.

Lawyer or agent not to be excluded

(9) The Board shall complete its review and make a decision within ninety days of receiving notice of the request, unless the parties consent to a longer period.

Time for decision

Board's
decision

(10) After conducting a review, the Board may make an order requiring the Registrar, society or licensee, as the case may be, to disclose all or part of the information to the person, or may make an order confirming the refusal.

Conditions

(11) The Board may include conditions in its order.

Written
decision
with reasons

(12) Whether the Board holds a hearing or not, it shall give its decision in writing, with reasons.

INFORMATION IN COURT FILE

Application

158i.—(1) This section applies to court proceedings that relate to decisions made by the Board under section 158h or by the Registrar, local directors or licensees under sections 158a, 158b, 158c, 158d, 158e, 158f and 158g.

Examination
of identifying
information
in court file

(2) Unless the court orders otherwise, only the court may examine identifying information that is in the court file and comes from the records of the Ministry or of a society or licensee.

Disclosure of
information

(3) No person shall, without the court's permission, disclose identifying information described in subsection (2) that he or she obtained from the court file.

FEES AND EXPENSES

Fees and
expenses

158j. The Registrar, societies and licensees may charge the prescribed fees for services provided under clause 158a (2) (g) and sections 158b, 158c, 158e and 158f, and may charge up to the prescribed amounts for expenses incurred in providing services under sections 158b, 158c, 158e and 158f.

8. Clause 159 (f) of the said Act is amended by striking out "adopting" in the second line and inserting in lieu thereof "adoptive".

9. Clause 163 (2) (d) of the said Act is repealed and the following substituted therefor:

(d) in the adoption disclosure register maintained under clause 157 (2) (a) of Part VII.

10.—(1) The title preceding section 190 of the said Act is repealed and the following substituted therefor:

CHILD AND FAMILY SERVICES REVIEW BOARD

(2) Subsection 190 (1) of the said Act is repealed and the following substituted therefor:

(1) The Board known as the "Children's Services Review Board" is continued under the name "Child and Family Services Review Board".

Child and
Family
Services
Review
Board

(1a) The Board is composed of the prescribed number of members appointed by the Lieutenant Governor in Council and has the powers and duties given to it by this Act and the regulations. Idem

11.—(1) Clause 203 (e) of the said Act is repealed and the following substituted therefor:

(e) further defining "identifying information" and "non-identifying information" for the purposes of sections 157 to 158j;

(ea) prescribing classes of persons for the purposes of paragraph 5 of subsection 158b (4) (persons who may request non-identifying information);

(eb) prescribing classes of persons for the purposes of subsection 158e (2) (search by Registrar);

(ec) prescribing additional powers, duties and procedures for the Board under section 158h;

(ed) prescribing fees and amounts for the purposes of section 158j.

(2) Section 203 of the said Act is amended by adding thereto the following subsection:

(2) Regulations made under clause (1) (ed) may prescribe different fees and amounts for the Registrar, for societies and for licensees. Idem

12. Clause 1 (c) of the *Day Nurseries Act*, being chapter 111 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 55, section 215, is repealed and the following substituted therefor:

(c) "Board" means the Child and Family Services Review Board continued under Part IX (Licensing) of the *Child and Family Services Act*, 1984.

1984, c. 55

13.—(1) The *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Extract of
information
to be
provided to
Registrar
of Adoption
Information
1984, c. 55

24a. Although an adopted person's original birth registration has been sealed pursuant to subsection 24 (2), the Registrar General shall, at the request of the Registrar of Adoption Information appointed under the *Child and Family Services Act, 1984*, provide the Registrar with the prescribed information from the original birth registration.

(2) Section 55 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 9, section 17, is further amended by adding thereto the following clause:

- (v) prescribing information for the purposes of section 24a (extract of information to be provided to Registrar of Adoption Information).

Commence-
ment

14. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

15. The short title of this Act is the *Adoption Disclosure Statute Law Amendment Act, 1987*.

Bill 166

An Act to amend the Game and Fish Act

The Hon. V. Kerrio
Minister of Natural Resources

<i>1st Reading</i>	December 2nd, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

SECTION 1. Amendments are being made to the interpretation section. These are either housekeeping or complementary to the other amendments being proposed.

SECTION 2. The section of the Act that sets out where the Act does not apply are being clarified. The new subsection 2 (4) of the Act is a new concept.

SECTION 3. The section setting out the purpose of the Act is being expanded.

SECTION 4. Subsection 8 (1) of the Act allows an officer to search vehicles, camps, boxes, etc., if there is reasonable grounds to believe that illegally taken fish or game are contained therein. The addition extends this power to a search for equipment, etc., that may have been used in the illegal taking.

SECTION 5. The section, which provides for an exemption from mandatory investigation or prosecution, is obsolete.

SECTION 6. Section 14 of the Act authorizes an officer to stop vehicles and vessels for certain specified purposes. The added subsections place a duty on the operator of a vehicle or vessel to stop when so requested.

SECTION 7. The new section 15a of the Act authorizes inspections of records in business premises.

SECTION 8. The rewritten subsection clarifies transfer of ownership of seized perishable goods.

SECTION 9. The new section 16a of the Act permits the seizing and disposition of undesirable species.

SECTION 10. The definition of "railway lands" is being clarified and two other terms used in section 18 of the Act are being defined for greater clarity.

SECTION 11. The new section 19a is self-explanatory.

SECTION 12. The words "Except as provided in the regulations" are being added.

SECTION 13. Section 23 of the Act is rewritten with subsection 23 (3) aimed at regulating the use of dogs during raccoon hunts being the new concept.

SECTION 14. Section 28 of the Act currently prohibits the use of a ferret in hunting game. Clauses (b) and (c) are new.

SECTION 15. Section 30 of the Act currently prohibits the use of body-gripping traps and leg-hold traps. Certain exceptions are made to this in subsection 30 (3). Subsections 30 (2) and (3) were rewritten to accommodate the definition of body-gripping trap and application by the regulations regarding the prohibiting of trappers and farmers use of traps in designated areas of high population density.

SECTION 16. Section 32 of the Act currently provides the releasing of any bird or animal imported into Ontario unless the Minister consents to the release. The section is rewritten to allow the Minister to give the consent subject to conditions or limitations.

SECTION 17. Section 33 of the Act currently states that game legally taken outside Ontario may be brought into or held in Ontario. It is rewritten to clarify that the permission applies only to game killed outside Ontario. A licence is required for certain activities relating to live game. Subsection 33 (2) is new.

SECTION 18. Section 35 of the Act currently makes it an offence to knowingly make a false statement in applications, reports, etc. The word "knowingly" is being deleted.

SECTION 19. The effect of section 36 of the Act is to require a licence to hunt or trap. The section is rewritten to allow for exceptions to be provided by regulation.

SECTION 20. Subsection 37 (3) of the Act sets out certain licences that may be issued. Two additional licences related to fishing are added. Subsections 37 (6) and (8) are rewritten to recognize the addition of the fishing licences. Subsection 37 (6a) is new. Subsection 37 (8) also will now require clothing, of a colour to be prescribed, to be worn. Subsection 37 (7a) is new.

SECTION 21. Section 39 of the Act currently allows an issuer to refuse to issue a licence. The new subsection 39 (2a) allows for the refusal to issue a commercial fishing licence where the applicant is in default of royalty payments. The new subsections 39 (4) and (5) allow a commercial fisherman to appeal the conditions placed on his or her licence by an issuer.

SECTION 22. Section 41 of the Act deals with appeals when there are refusals to issue licences. The subsections are rewritten to provide for appeals when licences are issued subject to conditions. This is complementary to the new subsection 39 (4) of the Act as set out in section 21 of the Bill.

SECTION 23. Section 43 of the Act deals with persons issuing licences and collecting fees therefor. The two subsections are rewritten to include reference to persons issuing permits.

SECTION 24. Section 44 of the Act deals with situations where municipalities pass by-laws regulating hunting. The subsection added permits the Minister to order the repeal of a by-law regulating hunting of pheasants, rabbits and foxes.

SECTION 25. Section 46 of the Act makes it an offence to knowingly possess illegally hunted game. The section is rewritten so that the reference to "knowingly" is deleted and "game" is changed to "animal or bird".

SECTION 26. Subsection 47 (1) of the Act restricts the hunting of certain specified game animals. Polar bears are deleted from the specified list to permit them to be dealt with as fur-bearers. Subsection 47 (2) limits a hunter to one licence to hunt certain specified animals. Black bear is added to the specified list.

SECTION 27. A section dealing with the destruction of dens and the use of bait for the hunting of black bears is added.

SECTION 28. The section repealed provides that a person may sell bear meat under the authority of a licence and that a person does not require a licence to buy bear meat for his or her own use. The sale of meat of black bear will fall within the ambit of subsection 51 (1) of the Act.

SECTION 29. Section 54 of the Act permits the hunting of certain specified birds. The effect of the amendment is to allow the list to be expanded by a declaration of the Lieutenant Governor in Council.

SECTION 30. The rewritten section clarifies the birds and the time the birds may be hunted and provides that some may not be hunted at any time.

SECTION 31. The repealed section 57 of the Act prohibits hunting pheasant with a rifle.

SECTION 32. Section 58 of the Act currently prohibits the propagation or sale of game birds without a licence. The ambit of the section is being expanded.

SECTION 33.—Subsection 1. Subsection 62 (1) of the Act states that a licence may fix the number of each species of fur-bearing animals that may be taken. The change expands this to allow the fixing of the number of black bear that may be taken.

Subsections 2 and 3. Currently subsections 62 (6) and (7) of the Act allow certain hunting privileges to trappers and farmers. Certain animals, however, are exempt. Wild turkeys are being added.

SECTION 34. The new section 62a is self-explanatory.

SECTION 35. Section 64 of the Act dealing with the possession of unsealed or unmarked pelts is rewritten to simplify and clarify its intent.

SECTION 36. Section 66 of the Act dealing with the requirements to seal or mark pelts is rewritten so that it is more precise.

SECTION 37. The new section 67a is self-explanatory.

SECTION 38. Section 72 of the Act deals with traffic in fish. The section is rewritten to reflect that there are various types of licences being issued.

SECTION 39. Section 74 of the Act regulates the possession of various types of fishing equipment. The section, as rewritten, moves some of the statutory provisions to the regulations.

SECTION 40. Section 76 of the Act restricts the hunting or possession of reptiles and amphibians. The reference to possession is being deleted. Subsection 76 (2) of the Act is new.

SECTION 41. Repealed section 79 of the Act requires that dogs used for hunting big game need to be licensed.

SECTION 42. Section 80 of the Act deals with dogs running at large in hunting areas. Subsection 80 (2) is rewritten to broaden its scope. Subsections 80 (3) and (4) are new.

SECTION 43. Section 82 of the Act deals with keeping live game in captivity. Subsections 82 (1) and (2) have been rewritten to remove the specific reference to wolf. Subsection 82 (3) has been rewritten with clause (c) containing the new elements. Subsection 82 (4) is new.

SECTION 44. Section 84 of the Act regulates the shipment of receptacles containing game or fish.

SECTION 45. Subsection 89 (1) of the Act provides for the cancellation of a licence where the holder is convicted of an offence. The cancellation of a licence also applies to a licence held at the time of conviction. The subsection is rewritten to provide that a licence holder may have the licence cancelled if the holder's agent is convicted. Subsections 89 (1a), (1b) and (1c) are new.

SECTION 46. The new subsection 91 (2) of the Act introduces a penalty specifically for holders of commercial licences.

SECTION 47. Section 92 of the Act sets out the matters with respect to which the Lieutenant Governor in Council may make regulations. The changes are complementary to the changes being made in this Bill.

SECTION 48. Section 93 of the Act sets out the matters with respect to which the Minister may make regulations.

SECTION 49. Self-explanatory.

Bill 166

1986

An Act to amend the Game and Fish Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Game and Fish Act*, being chapter 182 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraph:

1a. “bird” includes the eggs thereof.

(2) Paragraphs 3 and 6 of the said section 1 are repealed and the following substituted therefor:

3. “body-gripping trap” means a device designed to capture an animal, other than a mouse or rat, by seizing and holding the animal by its body or any part thereof and includes a spring trap, steel trap, gin, deadfall, snare and leg-hold trap;

.

4a. “culture”, when used with respect to fish, means the husbandry of fish including any activity that promotes or causes the growth or reproduction of fish but does not include the production of fish for the aquarium trade;

.

6. “domestic animals and domestic birds” includes non-native species in the possession or control of any person and fur-bearing animal kept on a fur farm, as defined in the *Fur Farms Act*, but does not include,

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i. species prescribed by the regulations as not domestic animals or birds,

ii. non-native subspecies, whether or not in the wild state, of native species, or

iii. non-native species present in the wild state;

6a. "encased", when referred to a fire-arm, means that,

i. the fire-arm is enclosed on all six sides in a case fastened in a manner that prevents the fire-arm from being loaded within the case, or

ii. the fire-arm is in a trunk compartment of a vehicle that is not open to the passenger's compartment of the vehicle.

(3) Paragraph 9 of the said section 1 is repealed and the following substituted therefor:

9. "fire-arm" includes an air or pellet gun, a bow and a cross-bow;

9a. "fish" includes,

i. parts of fish,

ii. shellfish, crustaceans and the parts thereof, and

iii. the eggs, spawn, larvae, spat and juvenile stages of fish, shellfish and crustaceans.

(4) Paragraph 10 of the said section 1 is amended by striking out "propagated" in the eighth line and inserting in lieu thereof "cultured".

(5) Paragraphs 14, 18, 19 and 35 of the said section 1 are repealed and the following substituted therefor:

14. "game bird" means any bird referred to in section 54, accipiter, buteo, eagle, falcon, harrier, osprey, owl, vulture and any other bird that may not be taken at any time under this Act, any bird that the Lieutenant Governor in Council declares to be a game bird or any bird protected by the *Migratory Birds Convention Act* (Canada) and includes any part of such bird;

19. "licence" means an instrument in a prescribed form or such other document, coupon, seal, tag or record prescribed by the regulations to be a licence;

.

- 24a. "Ontario waters" means any natural or man-made body of water in Ontario;

.

- 34a. "sport fishing" means the taking of fish for non-commercial purposes by means of hook with line, hook with line and rod, spear, dip-net, bait fish trap, seine net or bow and cross-bow;

35. "trap" means a body-gripping trap, box, cage, spring trap or net used to capture an animal or bird, and "trapping" has a corresponding meaning.

2. Section 2 of the said Act is repealed and the following substituted therefor:

APPLICATION

2.—(1) This Act, except where it specifically provides otherwise, does not apply, Application of Act

- (a) to domestic animals, other than dogs, domestic birds or fur-bearing animals kept on a fur farm as defined in the *Fur Farms Act*;

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- (b) to a person taking or destroying, on his or her land, an animal or bird, other than a caribou, deer, elk or moose or an animal or bird protected under the *Endangered Species Act*, by means that do not cause unnecessary suffering where he or she finds the animal or bird damaging or destroying his or her property or, on reasonable grounds, believes the animal or bird is about to damage or destroy his or her property; or

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- (c) to a person damaging or destroying a beaver dam in defence or preservation of his or her property.

(2) Clause (1) (b) does not operate to exempt any person from registering or reporting game taken where required to do so under a regulation made under paragraph 53 of section 92. Idem

Limitation
on protection
of property

(3) The exemption provided under clause (1) (b) applies only to those acts necessary to protect property and to the extent that they assist in the protection of the property.

Undesirable
species

(4) This Act applies to such domestic animals and domestic birds prescribed by the regulations as an undesirable species.

Application
R.S.O. 1980,
c. 181

(5) This Act applies to fur-bearing animals kept on a fur farm as defined in the *Fur Farms Act*, in respect of offences against sections 65, 67 and 69.

Idem

(6) Notwithstanding subsection (1), this Act applies to domestic animals and to persons referred to in clause (1) (b) in respect of the restrictions in section 30 on the use of body-gripping traps.

3. Section 3 of the said Act is amended by inserting after "Ontario" in the third line "for the social and economic benefit of the Province of Ontario".

4. Subsection 8 (1) of the said Act is amended by adding at the end thereof "or if any of them contains any implement, appliance, material, container, goods or equipment that has been used in connection with the commission of an offence against this Act or the regulations".

5. Section 12 of the said Act is repealed.

6. Section 14 of the said Act is amended by adding thereto the following subsections:

Duty of
operator
to stop

(2) Every operator of a vehicle or vessel shall stop the vehicle or vessel when requested to do so by an officer.

Signal by
officer

(3) Where an officer in the proximity of a vehicle or vessel,

(a) activates a lamp producing intermittent flashes of red light; or

(b) gives a hand signal to the operator of a vehicle or vessel,

the activation or the signal shall be deemed to be a request to stop for the purpose of subsection (2).

7. The said Act is amended by adding thereto the following section:

Inspections

15a.—(1) An officer may, for the purpose of checking for compliance with this Act and the regulations, enter in or upon

any land, premises, vessel or vehicle that is used for a business relating to animals, birds or fish or from which licences or permits are issued at any reasonable time, without a warrant, to carry out an inspection or audit of any animal, bird, fish, equipment, books, records or other documents pertaining to the business.

(2) No person shall refuse an officer acting under subsection (1) entry to any land, premises, vessel or vehicle or access to any animal, bird, fish, equipment, books, records or other documents that the officer is entitled, under subsection (1), to enter or inspect or audit, as the case may be. Idem

8.—(1) Subsection 16 (1) of the said Act is amended by inserting after “goods” in the third line “licence”.

(2) Clause 16 (1) (a) of the said Act is amended by inserting after “goods” in the second line “licence”.

(3) Subsection 16 (4) of the said Act is repealed and the following substituted therefor:

(4) Where, in the opinion of the person having custody of any game or fish seized under subsection (1), the game or fish will rot, spoil or otherwise perish, the game or fish is forfeited to the Crown in right of Ontario as represented by the Minister and the person having the custody may dispose of the game or fish as the Minister directs. Disposition of seized perishable property

9. The said Act is further amended by adding thereto the following section:

16a.—(1) An officer may seize any domestic animal or domestic bird that has been prescribed by the regulations as an undesirable species and the possession of which has been prohibited by the regulations. Seizing undesirable species

(2) Any domestic animal or domestic bird seized under subsection (1) is forfeited to the Crown in right of Ontario as represented by the Minister and may be disposed of as the Minister directs. Disposition of undesirable species

(3) The Minister may pay the owner of any animal or bird forfeited under subsection (2) the fair market value thereof if the animal or bird was lawfully brought into Ontario before it was declared an undesirable species. Compensation

10. Subsection 18 (11) of the said Act is repealed and the following substituted therefor:

Definitions

(11) In this section,

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“oral or written notice not to hunt or fish” includes a notice referred to in clause 5 (1) (b) of the *Trespass to Property Act*;

“owner” includes the Minister and officials of the Ministry;

“railway lands” includes all lands set apart under any Act in aid of a railway or of works in connection therewith or of works to be established, maintained or carried on by a railway.

11. The said Act is further amended by adding thereto the following section:

Hunting
while
impaired

19a. No person who is impaired by alcohol or a drug shall use a fire-arm while hunting or trapping.

12. Subsection 22 (2) of the said Act is repealed and the following substituted therefor:

Night
hunting

(2) Except as provided in the regulations, no person shall hunt any animal or bird during the period between one-half hour after sunset and one-half hour before sunrise.

13. Section 23 of the said Act is repealed and the following substituted therefor:

Exception,
raccoon
hunting

23.—(1) Subject to section 21 and notwithstanding section 22, the holder of a licence to hunt raccoon at night may possess or use a fire-arm of a calibre or type prescribed in the regulations and a light for the purpose of hunting raccoon during the open season therefor if accompanied by a dog.

Idem

(2) A person hunting raccoon at night pursuant to subsection (1) shall comply with the conditions prescribed by the regulations.

Use of light
restricted

(3) No person hunting under subsection (1) shall use a light that is attached to a vehicle or vessel or is shone from or in a vehicle or vessel.

14. Section 28 of the said Act is repealed and the following substituted therefor:

Restrictions
in hunting

28. Except as provided in the regulations, no person shall,

(a) use a ferret in hunting game;

- (b) hunt wild turkey by the use or with the aid of recorded calls; or
- (c) use bait in the hunting of wild turkeys.

15. Subsections 30 (2), (3), (4) and (5) of the said Act are repealed and the following substituted therefor:

(2) No person shall trap or attempt to trap any animal by means of a body-gripping trap. Prohibition

(3) Subsection (2) does not apply, Exceptions

(a) to any part of Ontario designated by the regulations as a part of Ontario to which the prohibition set out in subsection (2) does not apply; or

(b) except as provided by the regulations,

(i) to a person who holds a licence to hunt or trap fur-bearing animals,

(ii) to a farmer who uses a body-gripping trap on his or her own lands in defence or preservation of his or her property or in circumstances referred to in subsection 62 (7), or

(iii) to a person who uses a body-gripping trap designated by the regulations as a humane trap.

16. Subsection 32 (1) of the said Act is repealed and the following substituted therefor:

(1) Except with the written authority of the Minister and subject to such conditions and limitations as the Minister imposes, no person shall release any animal or bird imported into Ontario or propagated from stock imported into Ontario. Release of imported stock

17. Section 33 of the said Act is repealed and the following substituted therefor:

33.—(1) Except as provided in section 65, nothing in this Act prohibits the bringing into or possession in Ontario of game lawfully killed outside of Ontario. Importing game

(2) No person shall possess or import into Ontario any animal, bird or fish that was captured, taken, killed, possessed or exported in contravention of the laws of the place where the animal, bird or fish was captured, taken, killed or possessed. Idem

18. Section 35 of the said Act is amended by striking out “knowingly” in the first line.

19. Section 36 of the said Act is repealed and the following substituted therefor:

Licences
required

36. Except as provided in the regulations, no person shall hunt or trap or attempt to trap animals or birds unless the person is the holder of a licence to hunt or trap.

20.—(1) Clause 37 (3) (a) of the said Act is repealed and the following substituted therefor:

(a) a sport fishing licence.

(2) Subsection 37 (6) of the said Act is repealed and the following substituted therefor:

Licence to
be carried

(6) Except as provided in the regulations, no holder of a licence shall fish, hunt or trap unless at that time the holder has the appropriate licence on his or her person.

Surrender
of invalid
licence

(6a) No person shall refuse to surrender a licence,

(a) that was issued in contravention of this Act, the regulations or the manual of licence-issuing instructions;

(b) issued as a result of a licence described in clause (a); or

(c) that has been cancelled,

to an officer on the request of the officer.

(3) Section 37 of the said Act is amended by adding thereto the following subsection:

Possession
of cancelled,
etc., licence
prohibited

(7a) No person shall display or cause or permit to be displayed or have in his or her possession a cancelled, revoked, fictitious or fraudulently obtained or altered licence or permit.

(4) Subsection 37 (8) of the said Act is repealed and the following substituted therefor:

Wearing
badge and
clothing of
a specified
colour

(8) The holder of a licence of a class designated in the regulations shall, while hunting in such parts of Ontario as are prescribed in the regulations,

- (a) wear in a conspicuous place on his or her person a badge furnished by the Ministry clearly showing the number of the licence; or
- (b) wear clothing of such colour and in such a manner and quantity as is prescribed in the regulations.

21. Section 39 of the said Act is amended by adding thereto the following subsections:

(2a) An issuer of licences may refuse to issue a commercial fishing licence if the applicant therefor is in default of payment of levies or royalties for fish landed by the applicant under a commercial fishing licence. Idem

(4) Where an issuer of licences issues a commercial fishing licence subject to conditions that the licensee does not agree to in writing, the issuer shall serve a notice on the licensee. Commercial fishing licence

(5) A licensee to whom subsection (4) applies may carry on the activities permitted by the licence without prejudicing his or her right to a hearing by the Board. Licensee may carry on activities notwithstanding objects

22. Subsections 41 (3) and (4) of the said Act are repealed and the following substituted therefor:

(3) The report of the Board shall contain a summary of the facts presented at the hearing and its opinion on the merits of the issuing or cancellation of the licence or the conditions imposed, as the case may be, in light of the facts and in view of the purpose of this Act, together with its reasons for its opinion. Report

(4) The Minister, after receiving and considering the report of the Board, may direct or refuse to direct the issuance or reissuance of the licence, with or without conditions, or may carry out or refrain from carrying out his or her proposal to cancel the licence, as the case may be. Powers of Minister

23. Subsections 43 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) No person shall issue a licence or permit or collect a fee in respect thereof unless authorized by the Minister. Issuing licences and permits

(2) The Minister may authorize any person to issue licences or permits and such issuers shall have the powers and duties Idem

set out in the manual of licence-issuing instructions authorized by the Minister.

24. Section 44 of the said Act is amended by adding thereto the following subsection:

Repeal of
by-law

(6) The Minister may order the repeal of any by-law or any part thereof pertaining to the hunting of pheasants, rabbits and foxes by notice sent by registered mail to the clerk of the municipality and the by-law or part thereof shall be deemed to be repealed on the thirtieth day after the notice is sent.

25. Section 46 of the said Act is repealed and the following substituted therefor:

Possession
of animals
or birds

46. No person shall possess any animal or bird hunted in contravention of this Act or the regulations.

26.—(1) Subsection 47 (1) of the said Act is amended by striking out “polar bear” in the fourth line.

(2) Subsection 47 (2) of the said Act is amended by inserting after “hunt” in the second line “black bear”.

27. The said Act is further amended by adding thereto the following section:

Dens of
black bear

48a.—(1) Except with the written authority of the Minister, no person shall molest, damage or destroy a den of a black bear.

Bait

(2) Except as provided in the regulations, no person shall hunt black bear on Crown land where bait has been placed.

Idem

(3) Except with the permission of the person setting the bait, no person shall hunt black bear attracted to a bait not set by that person.

28. Section 53 of the said Act is repealed.

29. Section 54 of the said Act is amended by striking out “bob-white quail or wild turkey” in the sixth line and inserting in lieu thereof “bob-white quail, wild turkey or any other bird that the Lieutenant Governor in Council declares to be a game bird”.

30. Section 55 of the said Act is repealed and the following substituted therefor:

55. No person shall hunt any bird referred to in section 54 during the closed season or any other bird at any time, except,

Hunting
birds

- (a) crows, cowbirds, red-winged blackbirds, starlings, grackles and house-sparrows; or
- (b) birds, other than pheasants or Hungarian partridge, released under section 32.

31. Section 57 of the said Act is repealed.

32. Section 58 of the said Act is repealed and the following substituted therefor:

58. Except under the authority of a licence and subject to the regulations, no person,

Restriction
of sale, etc.,
of game
birds

- (a) shall sell or barter, offer for sale or barter or be involved in the sale or barter of a game bird or have a game bird for sale;
- (b) shall purchase an accipiter, buteo, eagle, falcon, harrier, osprey, owl or vulture; or
- (c) shall propagate a game bird or have a game bird for propagation.

33.—(1) Clause 62 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) fix the number of each species of fur-bearing animal or black bear that may be taken thereunder; and

(2) Subsection 62 (6) of the said Act is amended by inserting after “deer” in the sixth line “wild turkey”.

(3) Subsection 62 (7) of the said Act is amended by inserting after “deer” in the fourth line “wild turkey”.

34. The said Act is further amended by adding thereto the following section:

62a. Where a person has taken or killed any fur-bearing animal in defence or preservation of his or her property, that person shall report that fact to the Minister as prescribed in the regulations and shall not offer the pelt of the fur-bearing animal for sale or barter except under a licence and sealed in accordance with subsection 66 (1).

Animals
taken in
preservation
of property

35. Section 64 of the said Act is repealed and the following substituted therefor:

Possession of
fur-bearing
animals in
closed season

64. Except as provided in the regulations, no person shall, during the closed season, have in his or her possession directly or in that of any other person on his or her behalf any unsealed or unmarked fur-bearing animal or its unsealed or unmarked pelts killed in Ontario or outside Ontario.

36. Section 66 of the said Act is repealed and the following substituted therefor:

Requirement
for seal or
mark

66.—(1) No person shall,

- (a) sell or barter, offer for sale or barter or be involved in the sale, purchase or barter;
- (b) send or have sent to a tanner or taxidermist to be tanned, plucked or treated in any way; or
- (c) export from Ontario,

a fur-bearing animal or the pelt of a fur-bearing animal, except muskrat, taken or killed in Ontario that has not been sealed or marked by a duly authorized person.

Offence

(2) Except as provided in the regulations, no person licensed for an act referred to in clause 65 (1) (a), (b) or (c) shall have unsealed or unmarked pelt of any fur-bearing animal, other than muskrat, taken or killed in Ontario in his or her possession.

Idem

(3) No person shall present or permit to be presented for sealing or marking the pelt of any fur-bearing animal required under subsection (1) to be sealed that was not lawfully taken by him or her.

Idem

(4) No person shall be party to having or attempting to have sealed or marked the pelt of any fur-bearing animal that was not taken under the authority of the licence that is presented with the pelt or otherwise lawfully taken.

Idem

(5) No person in possession of a pelt of a fur-bearing animal that is imported into Ontario shall remove the seal or marking that was required to be affixed to the pelt by the jurisdiction from which the pelt was exported.

37. The said Act is further amended by adding thereto the following section:

67a.—(1) Except with the written authority of the Minister and subject to such conditions as the Minister may impose, no person shall propagate a fur-bearing animal or possess a fur-bearing animal for propagation.

Propagation
of fur-bearing
animals

(2) Subsection (1) does not apply to a person who propagates a fur-bearing animal or has a fur-bearing animal for propagation under the *Fur Farms Act*.

Exception

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c. 181

38. Section 72 of the said Act is repealed and the following substituted therefor:

72.—(1) Except as provided in the regulations, no person shall sell or barter, offer for sale or barter, purchase or be involved in the sale, purchase or barter of fish taken from Ontario waters in any manner unless that person is the holder of,

No traffic
of fish

- (a) a commercial fishing licence;
- (b) a commercial bait fish licence;
- (c) a bait fish dealer's licence;
- (d) a licence to preserve bait fish;
- (e) a licence to culture and sell fish;
- (f) a licence to own or operate a fishing preserve;
- (g) a licence prescribed in the regulations for the sale of fish; or
- (h) a licence prescribed in the regulations for the purchase of fish.

(2) No holder of a licence mentioned in subsection (1) shall sell or barter, offer to sell or barter or be involved in the sale or barter of fish taken from Ontario waters except the species of fish authorized for sale in the licence and subject to the conditions prescribed in the regulations.

Sale of
species
restricted

(3) No person shall buy, sell, barter or offer to buy, sell or barter or be involved in the purchase, sale or barter of or possess fish taken from Ontario waters during the closed season for that fish.

Idem

(4) Subsection (3) does not apply to,

Idem

- (a) the holder of a licence to culture and sell fish; or

(b) the holder of a fishing preserve licence,

who is dealing with fish taken in accordance with the licence.

Restriction
on
fish culture

(5) Except as provided in the regulations, no person shall culture fish.

Species
permitted to
be cultured
and sold

(6) Every licence to culture and sell fish is limited to such species of fish from amongst American eel, Arctic char, Atlantic salmon, brook trout, brown trout, bullhead catfish, channel catfish, chinook salmon, coho salmon, pink salmon, common carp, lake sturgeon, lake trout, lake whitefish, large-mouth bass, rainbow trout, smallmouth bass, yellow perch, yellow pickerel (walleye), suckers (*Catostomidae*) or minnows (*Cyprinidae*), except minnows that are goldfish (*Carassius auratus*), as set out in the licence.

For human
consumption
only

(7) No person shall sell, purchase or barter or offer to sell, purchase or barter, cultured American eel, Arctic char, Atlantic salmon, chinook salmon, coho salmon, common carp, pink salmon or yellow perch except for the purpose of human consumption.

39. Section 74 of the said Act is repealed and the following substituted therefor:

Fish nets,
possession

74. Except as provided in the regulations, no person shall possess a gill net, hoop net, pound net, seine net, trap net or trawl net or hook lines.

40.—(1) Section 76 of the said Act is amended by striking out “or possess” in the fourth line.

(2) The said section 76 is further amended by adding thereto the following subsection:

Idem

(2) Notwithstanding subsection (1) and until the requirement for a licence is prescribed by the regulations, no licence is required for hunting or attempting to hunt amphibian or reptile for the hunter's own use in accordance with the conditions prescribed in the regulations.

41. Section 79 of the said Act is repealed.

42. Subsection 80 (2) of the said Act is repealed and the following substituted therefor:

Use of dogs
in hunting
game

(2) No person shall use or be accompanied by a dog while hunting game prescribed in the regulations in a part of Ontario that is designated in the regulations.

(3) Any dog found running at large in a designated part of Ontario referred to in subsection (2) may be killed on sight by an officer without the officer incurring any liability or penalty therefor.

Dog at large
may be killed

(4) Subsection (2) does not apply where the dog is used, in accordance with the regulations, for retrieving or tracking wounded game.

Exception

43. Section 82 of the said Act is repealed and the following substituted therefor:

82.—(1) No person shall possess live game except,

Possession
of live game

(a) under the authority of a licence and on such conditions as are prescribed in the regulations; or

(b) pursuant to an appointment under subsection (4).

(2) Live game possessed contrary to this section and any cage, pen, crate, shelter or other enclosure used in connection therewith may be seized and, upon conviction of the person in possession or control thereof, becomes the property of the Crown in right of Ontario and may be disposed of by the Minister.

Seizure of
live game,
cages, etc.

(3) This section does not apply where live game is possessed,

Application
of section

(a) in a zoo operated by a municipality;

(b) for scientific or educational purposes in an institution that is principally funded by a government in Canada; or

(c) where the live game,

(i) is transported or shipped within Ontario, or

(ii) is held in quarantine in Ontario,

in accordance with the regulations.

(4) The Minister may appoint in writing custodians who may have in their possession, for the purpose of caring, injured, sick or immature game subject to such conditions as the Minister may impose.

Custodians

44. Section 84 of the said Act is amended by adding thereto the following subsection:

Exception

(2) Subsection (1) does not apply to a shipment or transportation of fish done in accordance with conditions prescribed in the regulations.

45. Subsection 89 (1) of the said Act is repealed and the following substituted therefor:

Cancellation
of licenceR.S.O. 1980,
c. 167R.S.C. 1970,
c. F-14

(1) Upon the conviction of a holder of a licence or an agent, as shown on the licence, of the holder of an offence against this Act or the regulations, the *Fish Inspection Act*, the *Fisheries Act* (Canada) or the Ontario Fishery Regulations, the licence held at the time of conviction, if it is related to the offence, is thereupon cancelled without further action or notice.

Exception

(1a) Subsection (1) does not apply to a licence to take fish by means of sport fishing or a licence to hunt except where it is a licence to hunt or trap fur-bearing animals.

Revival
of licence

(1b) The Minister may revive any licence cancelled by the operation of subsection (1) upon such conditions as the Minister considers proper.

New applica-
tion
prohibited

(1c) No person whose licence has been cancelled under subsection (1) and not revived shall apply for or obtain a licence to permit the doing of something related to the offence for which the person was convicted.

46. Section 91 of the said Act is amended by adding thereto the following subsection:

Penalty
—commercial
game or fish

(2) Every person who is convicted of an offence under this Act pertaining to the commercialization of game or fish is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than two years less a day or to both.

47.—(1) Section 92 of the said Act is amended by adding thereto the following paragraphs:

1a. exempting classes of persons from the requirement of a licence under this Act and the Ontario Fishery Regulations;

.

3a. prescribing the number of dogs and the conditions upon which a person may be accompanied by dogs while hunting raccoon at night.

(2) Paragraph 8 of the said section 92 is repealed and the following substituted therefor:

8. prescribing the fee to enter upon lands owned by the Crown that are used for the purpose of propagating or retaining game or culturing or retaining fish;

.

- 12a. declaring birds to be game birds;

- 12b. providing for the exemption from subsections 22 (2), 37 (6), 47 (2), 66 (2) and 72 (1), section 74, subsection 82 (2) and clause 82 (3) (c) and prescribing the conditions therefor.

(3) Paragraph 23 of the said section 92 is amended by striking out "polar bear" in the second line.

(4) The said section 92 is further amended by adding thereto the following paragraph:

- 23a. defining "bait" and prescribing the conditions and designating areas in which bait may be used for hunting of black bear.

(5) Paragraphs 24, 25, 38, 39 and 44 of the said section 92 are repealed and the following substituted therefor:

24. prescribing the open seasons during which and the conditions upon which ruffed grouse, spruce grouse, Hungarian partridge, pheasant, sharp-tailed grouse, greater prairie-chicken, ptarmigan, bob-white quail, wild turkey and other bird declared pursuant to paragraph 12a may be hunted;

25. prescribing the species of game that may be hunted by a person who is accompanied by dogs, the conditions upon which dogs may be used for hunting game and the number of dogs, providing for identification of the owners of the dogs and designating any parts of Ontario in which no person shall use or be accompanied by a dog while hunting game;

- 25a. prescribing the conditions under which a person may use dogs for the purpose of retrieving or tracking of wounded game;

.

38. regulating, restricting or prohibiting the possession or use of traps, including,
 - i. designating parts of Ontario in which the prohibition set out in subsection 30 (2) does not apply,
 - ii. designating parts of Ontario in which the prohibition set out in subsection 30 (2) applies to any or all of the classes of persons referred to in subclauses 30 (3) (b) (i), (ii) and (iii),
 - iii. designating body-gripping traps as humane traps for the purposes of subclause 30 (3) (b) (iii);
39. regulating, restricting or prohibiting the possession or use of fire-arms, the characteristics of fire-arms, ammunition or projectiles for the purpose of hunting;
- 39a. prescribing the conditions upon which the Minister may authorize a person, who is incapable because of physical or mental impairment of meeting the requirements of this Act or the regulations governing the issuance of a licence to hunt or trap without carrying a fire-arm;

.
- 42a. prescribing the colour of and the amount of colour and the manner in which clothing shall be worn while hunting;

.
44. establishing a system for the calculation of payment of levies or royalties payable in respect of fish or under section 69 and excepting any fish or fur-bearing animal from the application thereof;
- 44a. prescribing the conditions under which a person may ship or transport fish for the purpose of subsection 84 (2);
- 44b. for the purpose of subsection 2 (3) and section 16a, declaring species of domestic animals and domestic birds, including the eggs thereof, as undesirable species and regulating, restricting or prohibiting their possession;

44c. declaring animals and birds of species not usually occurring in Ontario in the wild to be not domestic animals or birds;

44d. prescribing any matter that by this Act is required or permitted to be or referred to as prescribed by the regulations.

48. Subsection 93 (1) of the said Act is amended by adding thereto the following paragraph:

7. prescribing the rates and time of payment of the levies or royalties payable in respect of fish or under section 69 and excepting any fish or fur-bearing animal therefrom.

49. The said Act is further amended by adding thereto the following section:

95. Notwithstanding subsection 76 (1) of the *Provincial Offences Act*, proceedings to enforce any provision of this Act or the regulations may be instituted within two years after the time the subject-matter of the proceedings arose.

Institution of
proceedings
R.S.O. 1980,
c. 400

50. This Act comes into force on the 1st day of January, 1987.

Commence-
ment

51. The short title of this Act is the *Game and Fish Amendment Act, 1986*.

Short title

Bill 167

An Act to amend the Assessment Act

The Hon. R. Nixon
Minister of Revenue

<i>1st Reading</i>	December 4th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

The purpose of the Bill is,

- (a) to provide for the return of assessment rolls for municipal taxation at present levels of assessment except where re-assessment is introduced by proclamation at full market value, by equalization of assessment based on market value under subsection 63 (3) or on a region or county-wide basis;
- (b) to place condominium owners on an equal footing with all other single-family residential property owners by providing that, the assessments of condominium and co-operative units, like the assessments of all other properties, will not be adjusted annually, and that, in any appeal of the assessment of a condominium unit, proposed condominium unit or unit or suite in a co-operative housing corporation, the unit shall be assessed at the same proportion of market value as are single-family residences and condominium units in the vicinity.

SECTION 1. The effect of the re-enactment of subsection 63 (1) of the Act is to provide for the return of assessment rolls for municipal taxation at present levels of assessment except where a reassessment is introduced by proclamation at full market value or by equalization of assessment based on market value. Subsection 63 (1) now reads as follows:

(1) Subject to the other provisions of this Act and to the alterations, corrections, additions and amendments authorized by this Act, and for the purpose of any special or general Act,

- (a) the assessment roll of a municipality to be returned in the year 1974 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1970 for taxation in the year 1971 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1974;*
- (b) the assessment roll of a municipality to be returned in the year 1975 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1974 for taxation in the year 1975 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1975;*
- (c) the assessment roll of a municipality to be returned in the year 1976 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1975 for taxation in the year 1976 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1976;*
- (d) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1977 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1976 for taxation in the year 1977 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1977;*
- (e) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1978 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1977 for taxation in the year 1978 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1978;*
- (f) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1979 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1978 for taxation in the year 1979 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1980 is returned;*

- (g) *subject to subsection (2), the assessment roll of a municipality to be returned in the year 1980 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1979 for taxation in the year 1980 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1981 is returned;*
- (h) *subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1981 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1980 for taxation in the year 1981 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1982 is returned;*
- (i) *subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1982 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1981 for taxation in the year 1982 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1983 is returned;*
- (j) *subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1983 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1982 for taxation in the year 1983 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1984 is returned;*
- (k) *subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1984 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1983 for taxation in the year 1984 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1985 is returned; and*
- (l) *subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1985 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1984 for taxation in the year 1985 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1986 is returned,*

provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years 1974 to and including 1985 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

SECTION 2. The effect of the re-enactment of subsection 65 (2) of the Act is to place condominium owners on an equal footing with all other single-family residential property owners by providing that the assessments of condominium and co-operative units, like the assessments of all other properties, will not be adjusted annually, and that, in any appeal of the assessment of a condominium unit, proposed condominium unit or unit or suite in a co-operative housing corporation, the unit shall be assessed at the same proportion of market value as are single-family residences and condominium units in the vicinity. Subsection 65 (2) now reads as follows:

(2) For the purposes of subsection (1) and of section 63, where a residential assessment is made with respect to a unit, as defined in the Condominium Act, a proposed unit, as defined in that Act, or a unit or suite in the building of a co-operative housing corporation, the value at which such unit, proposed unit or suite shall be assessed shall be based on the same proportion of the market value thereof as that at which owner-occupied single-family residences in the vicinity are assessed.

SECTION 3. The repeal of section 68 of the Act is consequent upon the amendment made by section 1 of the Bill and provides that section 65 will remain in force as the

basis of an assessment appeal unless otherwise suspended by a proclamation at full market value under section 70. Section 68 now reads as follows:

68. Section 65 ceases to be in force on the 16th day of December, 1986, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action that will affect taxes for the years 1971 to and including 1986.

SECTION 4. The re-enactment of section 69 of the Act relates to the change made by section 1 of the Bill and provides that under a proclamation at full market value, subsection 24 (6) of the Act, which provides for depreciation of pipe line assessments, may only be brought into force under subsection 70 (2) of the Act. Section 69 now reads as follows:

69. Subject to section 70, subsection 24 (6) is not in force and remains inoperative until the 1st day of January, 1986.

SECTION 5. The deletion of the final clause in subsection 70 (1) of the Act is necessitated by the repeal of section 68 by section 3 of the Bill. Subsection 70 (1) now reads as follows:

(1) Notwithstanding any other provision of this Act, the Lieutenant Governor by proclamation may provide that, on a day named in the proclamation, the whole or any part of the provisions of sections 62 to 67 shall cease to be in force in any municipality or territory without municipal organization comprised in a locality named or described in the proclamation, and upon the making of such a proclamation the provisions of this Act specified in the proclamation cease to be in force in the municipality or territory without municipal organization comprised in a locality named or described as of the date named in the proclamation, but such a proclamation shall not extend the application of any provision therein mentioned beyond the time that the provision would otherwise cease to be in force as set out in section 68.

Bill 167

1986

An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 63 (1) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 47, section 13, 1982, chapter 56, section 4, 1983, chapter 58, section 4, 1984, chapter 49, section 1 and 1985, chapter 9, section 1, is repealed and the following substituted therefor:

(1) Subject to the other provisions of this Act and to the alterations, corrections, additions and amendments authorized by this Act, and for the purpose of any special or general Act, the assessment roll of a municipality to be returned in each year for taxation in the next following year shall be the assessment of all real property as set forth in the assessment roll returned in the immediately preceding year as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the next following year is returned, provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years after 1973 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

Roll to be
returned in
each year

2. Subsection 65 (2) of the said Act is repealed and the following substituted therefor:

(2) For the purposes of subsection (1), where a residential assessment has been made with respect to a unit, as defined in the *Condominium Act*, a proposed unit, as defined in that Act, or a unit or suite in the building of a co-operative housing corporation, the value at which such unit, proposed unit or suite shall be assessed shall be based on the same proportion of the market value thereof as that at which owner-occupied single-family residences in the vicinity are assessed.

Condominium
and
co-operative
housing
R.S.O. 1980,
c. 84

3. Section 68 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 9, section 2, is repealed.

4. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 9, section 3, is repealed and the following substituted therefor:

Application

69. Subject to section 70, subsection 24 (6) is not in force and remains inoperative until a day to be named by proclamation of the Lieutenant Governor.

5. Subsection 70 (1) of the said Act is amended by striking out "but such a proclamation shall not extend the application of any provision therein mentioned beyond the time that the provision would otherwise cease to be in force as set out in section 68" in the twelfth, thirteenth, fourteenth and fifteenth lines.

Commence-
ment

6. This Act shall be deemed to have come into force on the 1st day of December, 1986.

Short title

7. The short title of this Act is the *Assessment Amendment Act, 1986*.

Bill 167

(Chapter 71
Statutes of Ontario, 1986)

An Act to amend the Assessment Act

The Hon. R. Nixon
Minister of Revenue

<i>1st Reading</i>	December 4th, 1986
<i>2nd Reading</i>	December 16th, 1986
<i>3rd Reading</i>	December 18th, 1986
<i>Royal Assent</i>	December 18th, 1986

Bill 167

1986

An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 63 (1) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 47, section 13, 1982, chapter 56, section 4, 1983, chapter 58, section 4, 1984, chapter 49, section 1 and 1985, chapter 9, section 1, is repealed and the following substituted therefor:

(1) Subject to the other provisions of this Act and to the alterations, corrections, additions and amendments authorized by this Act, and for the purpose of any special or general Act, the assessment roll of a municipality to be returned in each year for taxation in the next following year shall be the assessment of all real property as set forth in the assessment roll returned in the immediately preceding year as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the next following year is returned, provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years after 1973 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

Roll to be
returned in
each year

2. Subsection 65 (2) of the said Act is repealed and the following substituted therefor:

(2) For the purposes of subsection (1), where a residential assessment has been made with respect to a unit, as defined in the *Condominium Act*, a proposed unit, as defined in that Act, or a unit or suite in the building of a co-operative housing corporation, the value at which such unit, proposed unit or suite shall be assessed shall be based on the same proportion of the market value thereof as that at which owner-occupied single-family residences in the vicinity are assessed.

Condominium
and
co-operative
housing
R.S.O. 1980,
c. 84

3. Section 68 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 9, section 2, is repealed.

4. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 9, section 3, is repealed and the following substituted therefor:

Application

69. Subject to section 70, subsection 24 (6) is not in force and remains inoperative until a day to be named by proclamation of the Lieutenant Governor.

5. Subsection 70 (1) of the said Act is amended by striking out "but such a proclamation shall not extend the application of any provision therein mentioned beyond the time that the provision would otherwise cease to be in force as set out in section 68" in the twelfth, thirteenth, fourteenth and fifteenth lines.

Commence-
ment

6. This Act shall be deemed to have come into force on the 1st day of December, 1986.

Short title

7. The short title of this Act is the *Assessment Amendment Act, 1986*.

Bill 168

An Act to amend the Legislative Assembly Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading December 8th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The annual indemnity of members of the Assembly is increased from \$36,166 to \$37,567.

The annual allowance for expenses of members of the Assembly is increased from \$12,142 to \$12,616.

SECTION 2. Leaders' allowances for expenses are increased:

1. For the Premier, from \$6,832 to \$7,098.
2. For the Leader of the Opposition, from \$4,555 to \$4,733.
3. For the Leader of the Third Party, from \$2,277 to \$2,366.

SECTION 3. Additional indemnities are increased:

1. For the Speaker, from \$19,560 to \$20,323.
2. For the Leader of the Opposition, from \$26,499 to \$27,532.
3. For the Leader of the Third Party, from \$13,305 to \$13,825.

SECTION 4. Additional indemnities are increased:

1. For the Chairman of the Committees of the Whole House, from \$8,187 to \$8,506.
2. For the Deputy Chairman of the Committees of the Whole House, from \$5,686 to \$5,908.
3. For chairmen of standing committees, from \$4,434 to \$4,607.

SECTION 5. Additional indemnities to Whips are increased:

1. For the Chief Government Whip, from \$10,121 to \$10,156.
2. For the Deputy Government Whip, from \$6,936 to \$7,207.
3. For the Government Whips, from \$5,003 to \$5,198.
4. For the Chief Opposition Whip, from \$6,936 to \$7,207.
5. For the Opposition Whips, from \$5,003 to \$5,198.
6. For the Chief Party Whip of the Third Party, from \$5,686 to \$5,908.
7. For the Party Whip of the Third Party, from \$4,549 to \$4,726.

SECTION 6. Allowances for expenses are increased:

1. For each member of a committee, from \$65 to \$68.
2. For the chairman of a committee, from \$76 to \$79.

SECTION 7. Additional indemnities are increased:

1. For the Opposition House Leader, from \$10,121 to \$10,516.
2. For the House Leader of the Third Party, from \$7,619 to \$7,916.

Bill 168

1986

An Act to amend the Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$37,567 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$12,616 shall be paid to every member of the Assembly. Members' allowances,

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 2, is repealed and the following substituted therefor:

61. In addition to his indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

(a) to the Premier, at the rate of \$7,098 per annum;

(b) to the Leader of the Opposition, at the rate of \$4,733 per annum; and

(c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,366 per annum.

3. Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 3, is repealed and the following substituted therefor:

Indemnity
of Speaker,
Leader of
Opposition
and leader
of a minority
party

(1) In addition to his indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$20,323 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$27,532 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$13,825.

4. Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 4, is repealed and the following substituted therefor:

Chairman
and Deputy
Chairman of
Whole House
and
chairmen
of standing
committees,
indemnity

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$8,506 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$5,908 per annum; and
- (c) to the chairman of each standing committee at the rate of \$4,607 per annum.

5. Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 5, is repealed and the following substituted therefor:

Whips,
indemnities

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Chief Government Whip, at the rate of \$10,156 per annum;
- (b) to the Deputy Government Whip, at the rate of \$7,207 per annum;
- (c) to each of not more than three Government Whips, at the rate of \$5,198 per annum;
- (d) to the Chief Opposition Whip, at the rate of \$7,207 per annum;

- (e) to each of not more than two Opposition Whips, at the rate of \$5,198 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
 - (i) to the Chief Party Whip of the party, at the rate of \$5,908 per annum, and
 - (ii) to the Party Whip of the party, at the rate of \$4,726 per annum.

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 50, section 7 and 1985, chapter 18, section 6, is further amended by striking out the first, second, third and fourth lines in the amendment of 1985 and inserting in lieu thereof the following:

(1) There shall be paid to each member of a committee of the Assembly other than the chairman thereof an allowance for expenses of \$68 and to the chairman thereof an allowance for expenses of \$79, and,

7. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 8, is repealed and the following substituted therefor:

69. In addition to his indemnity as a member, an indemnity shall be paid,

House
Leaders'
indemnities

- (a) to the Opposition House Leader, at the rate of \$10,516 per annum;
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$7,916 per annum.

8. This Act shall be deemed to have come into force on the 1st day of April, 1986.

Commence-
ment

9. The short title of this Act is the *Legislative Assembly Amendment Act, 1986.*

Short title

Bill 168

An Act to amend the Legislative Assembly Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading December 8th, 1986

2nd Reading December 15th, 1986

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The annual indemnity of members of the Assembly is increased from \$36,166 to \$37,576.

The annual allowance for expenses of members of the Assembly is increased from \$12,142 to \$12,616.

SECTION 2. Leaders' allowances for expenses are increased:

1. For the Premier, from \$6,832 to \$7,098.
2. For the Leader of the Opposition, from \$4,555 to \$4,733.
3. For the Leader of the Third Party, from \$2,277 to \$2,366.

SECTION 3. Additional indemnities are increased:

1. For the Speaker, from \$19,560 to \$20,323.
2. For the Leader of the Opposition, from \$26,499 to \$27,532.
3. For the Leader of the Third Party, from \$13,305 to \$13,824.

SECTION 4. Additional indemnities are increased:

1. For the Chairman of the Committees of the Whole House, from \$8,187 to \$8,506.
2. For the Deputy Chairman of the Committees of the Whole House, from \$5,686 to \$5,908.
3. For chairmen of standing committees, from \$4,434 to \$4,607.

SECTION 5. Additional indemnities to Whips are increased:

1. For the Chief Government Whip, from \$10,121 to \$10,516.
2. For the Deputy Government Whip, from \$6,936 to \$7,207.
3. For the Government Whips, from \$5,003 to \$5,198.
4. For the Chief Opposition Whip, from \$6,936 to \$7,207.
5. For the Opposition Whips, from \$5,003 to \$5,198.
6. For the Chief Party Whip of the Third Party, from \$5,686 to \$5,908.
7. For the Party Whip of the Third Party, from \$4,549 to \$4,726.

SECTION 6. Allowances for expenses are increased:

1. For each member of a committee, from \$65 to \$68.
2. For the chairman of a committee, from \$76 to \$79.

SECTION 7. Additional indemnities are increased:

1. For the Opposition House Leader, from \$10,121 to \$10,516.
2. For the House Leader of the Third Party, from \$7,619 to \$7,916.

Bill 168**1986****An Act to amend the Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$37,576 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$12,616 shall be paid to every member of the Assembly. Members' allowances,

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 2, is repealed and the following substituted therefor:

61. In addition to his indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

(a) to the Premier, at the rate of \$7,098 per annum;

(b) to the Leader of the Opposition, at the rate of \$4,733 per annum; and

(c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,366 per annum.

3. Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 3, is repealed and the following substituted therefor:

Indemnity
of Speaker,
Leader of
Opposition
and leader
of a minority
party

(1) In addition to his indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$20,323 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$27,532 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$13,824.

4. Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 4, is repealed and the following substituted therefor:

Chairman
and Deputy
Chairman of
Whole House
and
chairmen
of standing
committees,
indemnity

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$8,506 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$5,908 per annum; and
- (c) to the chairman of each standing committee at the rate of \$4,607 per annum.

5. Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 5, is repealed and the following substituted therefor:

Whips,
indemnities

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Chief Government Whip, at the rate of \$10,516 per annum;
- (b) to the Deputy Government Whip, at the rate of \$7,207 per annum;
- (c) to each of not more than three Government Whips, at the rate of \$5,198 per annum;
- (d) to the Chief Opposition Whip, at the rate of \$7,207 per annum;

- (e) to each of not more than two Opposition Whips, at the rate of \$5,198 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
 - (i) to the Chief Party Whip of the party, at the rate of \$5,908 per annum, and
 - (ii) to the Party Whip of the party, at the rate of \$4,726 per annum.

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 50, section 7 and 1985, chapter 18, section 6, is further amended by striking out the first, second, third and fourth lines in the amendment of 1985 and inserting in lieu thereof the following:

(1) There shall be paid to each member of a committee of the Assembly other than the chairman thereof an allowance for expenses of \$68 and to the chairman thereof an allowance for expenses of \$79, and,

7. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 8, is repealed and the following substituted therefor:

69. In addition to his indemnity as a member, an indemnity shall be paid,

House
Leaders'
indemnities

- (a) to the Opposition House Leader, at the rate of \$10,516 per annum;
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$7,916 per annum.

8. This Act shall be deemed to have come into force on the 1st day of April, 1986.

Commence-
ment

9. The short title of this Act is the *Legislative Assembly Amendment Act, 1986*.

Short title

Bill 168

*(Chapter 72
Statutes of Ontario, 1986)*

An Act to amend the Legislative Assembly Act

The Hon. R. Nixon
Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	December 8th, 1986
<i>2nd Reading</i>	December 15th, 1986
<i>3rd Reading</i>	December 15th, 1986
<i>Royal Assent</i>	December 18th, 1986

Bill 168

1986

An Act to amend the Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$37,576 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$12,616 shall be paid to every member of the Assembly. Members' allowances,

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 2, is repealed and the following substituted therefor:

61. In addition to his indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

- (a) to the Premier, at the rate of \$7,098 per annum;
- (b) to the Leader of the Opposition, at the rate of \$4,733 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,366 per annum.

3. Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 3, is repealed and the following substituted therefor:

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- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$13,824.

4. Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 4, is repealed and the following substituted therefor:

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and Deputy
Chairman of
Whole House
and
chairmen
of standing
committees,
indemnity

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$8,506 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$5,908 per annum; and
- (c) to the chairman of each standing committee at the rate of \$4,607 per annum.

5. Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 5, is repealed and the following substituted therefor:

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- (a) to the Chief Government Whip, at the rate of \$10,516 per annum;
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- (d) to the Chief Opposition Whip, at the rate of \$7,207 per annum;

- (e) to each of not more than two Opposition Whips, at the rate of \$5,198 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
 - (i) to the Chief Party Whip of the party, at the rate of \$5,908 per annum, and
 - (ii) to the Party Whip of the party, at the rate of \$4,726 per annum.

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 50, section 7 and 1985, chapter 18, section 6, is further amended by striking out the first, second, third and fourth lines in the amendment of 1985 and inserting in lieu thereof the following:

(1) There shall be paid to each member of a committee of the Assembly other than the chairman thereof an allowance for expenses of \$68 and to the chairman thereof an allowance for expenses of \$79, and,

7. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 8, is repealed and the following substituted therefor:

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House
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- (a) to the Opposition House Leader, at the rate of \$10,516 per annum;
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$7,916 per annum.

8. This Act shall be deemed to have come into force on the 1st day of April, 1986.

Commence-
ment

9. The short title of this Act is the *Legislative Assembly Amendment Act, 1986*.

Short title

Bill 169

An Act to amend the Executive Council Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading December 8th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

SECTION 1. Annual salaries are increased as follows:

1. Premier and President of the Council, from \$37,759 to \$39,231.
2. Minister with portfolio, from \$26,499 to \$27,532.
3. Minister without portfolio, from \$13,306 to \$13,825.
4. Parliamentary Assistant, from \$8,187 to \$8,506.

Bill 169

1986

An Act to amend the Executive Council Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (1), (2), (3) and (4) of the *Executive Council Act*, being chapter 147 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 19, section 1, are repealed and the following substituted therefor:

(1) The annual salary of every minister with portfolio is \$27,532. Salaries

(2) The Premier and President of the Council shall receive, in addition, \$11,699 per annum. Additional salary for Premier

(3) The annual salary of every minister without portfolio is \$13,825. Salary of minister without portfolio

(4) The annual salary of every Parliamentary Assistant is \$8,506. Salary of Parliamentary Assistant

2. This Act shall be deemed to have come into force on the 1st day of April, 1986. Commence-
ment

3. The short title of this Act is the *Executive Council Amendment Act, 1986*. Short title

Bill 169

*(Chapter 73
Statutes of Ontario, 1986)*

An Act to amend the Executive Council Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	December 8th, 1986
<i>2nd Reading</i>	December 15th, 1986
<i>3rd Reading</i>	December 15th, 1986
<i>Royal Assent</i>	December 18th, 1986

Bill 169

1986

An Act to amend the Executive Council Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (1), (2), (3) and (4) of the *Executive Council Act*, being chapter 147 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 19, section 1, are repealed and the following substituted therefor:

(1) The annual salary of every minister with portfolio is \$27,532. Salaries

(2) The Premier and President of the Council shall receive, in addition, \$11,699 per annum. Additional salary for Premier

(3) The annual salary of every minister without portfolio is \$13,825. Salary of minister without portfolio

(4) The annual salary of every Parliamentary Assistant is \$8,506. Salary of Parliamentary Assistant

2. This Act shall be deemed to have come into force on the 1st day of April, 1986. Commencement

3. The short title of this Act is the *Executive Council Amendment Act, 1986*. Short title

Bill 170

An Act to revise the Pension Benefits Act

The Hon. M. Kwinter

Minister of Financial Institutions

<i>1st Reading</i>	December 9th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

The Bill revises the *Pension Benefits Act*. The changes include the following:

1. The role of the administrator of a pension plan is emphasized. (sections 8, 20)
2. Minimum contents to be set out in a pension plan are established. (section 10)
3. A statutory standard of care is set out for persons involved in the administration of pension plans and pension funds. (section 23)
4. Provision is made for the appointment of advisory committees to monitor the pension plan where there is no member representation on the body responsible for the administration of the plan. (section 25)
5. A maximum period of two years of employment for full-time employees to become eligible to join a pension plan is established. (section 32)
6. The maximum eligibility for membership in a pension plan for part-time employees is two years of employment with minimum income based on the Year's Maximum Pensionable Earnings. (section 32)
7. All employees in a class of employees, whether full-time or part-time, are eligible to become members of a pension plan that has been established for that class of employees. (section 32)
8. The maximum normal retirement date for pension plans is set as not later than one year after the attainment of sixty-five years of age. (section 36)
9. The maximum vesting period for benefits earned after December 31, 1986 is twenty-four months. (section 38)
10. Employers' contributions must provide at least 50 per cent of a pension earned after December 31, 1986. (section 40)
11. Persons who terminate employment are entitled to receive an early retirement pension at any time within ten years of attaining the normal retirement date established by the plan. (section 42)
12. Employees are given transfer options with respect to their deferred pensions upon termination of employment. The portability will be subject to limitations prescribed by regulation that relate to the solvency of the pension plan and that require the amount transferred to be treated in the same way as a pension. (section 43)
13. Where a person entitled to start receiving pension benefits has a spouse at the date payment commences, that pension must be in the form of a joint and survivor pension, unless the spouses have made a decision that it should be otherwise. (section 45)
14. The remarriage of a person who is receiving a survivor benefit under a pension plan will not disentitle that person to payment of the pension. (section 48)
15. The Bill provides for a minimum benefit to be paid to a spouse or a beneficiary where a person who is entitled to a deferred pension dies prior to receiving that pension. (section 49)
16. Where spouses have decided to split a pension by domestic agreement, or an order under the *Family Law Act, 1986* gives a spouse an interest in the other spouse's pension, the agreement or order is not effective to require payment of the pension benefit until the pension is in pay. (section 52)

17. Pension plans will not be able to discriminate on the basis of sex. (section 53)
18. Reductions based on entitlements to benefits under the *Canada Pension Plan*, *Quebec Pension Plan* or *Old Age Security Act* will be regulated. Also, new pension plans will not be able to permit the reduction of a pension based on the person's entitlement under the *Old Age Security Act*. (section 55)
19. Notice requirements related to an application for payment out of a pension plan to an employer of any surplus in the plan are set out in the Act. Criteria which the plan will have to satisfy prior to payment of surplus out of a plan to the employer will be established by regulation. The Commission is prohibited from giving its consent to an application until a prescribed date. (sections 79, 80)
20. A formal hearing procedure for proposals made by the Superintendent is established. The hearings will be by the Commission. (sections 90, 92)

Bill 170

1986

An Act to revise the Pension Benefits Act

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“additional voluntary contribution” means a contribution to the pension fund by a member of the pension plan beyond

any amount that the member is required to contribute, but does not include a contribution in relation to which the employer is required to make a concurrent additional contribution to the pension fund;

“administrator” means the person or persons that administer the pension plan;

“assets”, in relation to an employer, means assets that in the ordinary course of business would be entered in books of account, whether or not a particular asset is entered in the books of account of the employer;

“bridging benefit” means a periodic payment provided under a pension plan to a member of the pension plan for a temporary period of time after retirement for the purpose of supplementing the member’s pension benefit until the member is eligible to receive benefits under the *Old Age Security Act* (Canada) or commences to receive retirement benefits under the *Canada Pension Plan* or the *Quebec Pension Plan*;

R.S.C. 1970,
cc. O-6, C-5

R.S.Q. 1977,
c. R-9

“certified copy” means a copy certified to be a true copy;

“collective agreement” has the same meaning as in the *Labour Relations Act*;

R.S.O. 1980,
c. 228

“Commission” means the Pension Commission of Ontario;

“commuted value” means the value calculated in the prescribed manner and as of a fixed date of a pension, a deferred pension, a pension benefit or an ancillary benefit;

“continuous”, in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service and without regard to periods of lay-off from employment;

“contributory benefit” means a pension benefit or part of a pension benefit to which a member is required to make contributions under the terms of the pension plan;

“deferred pension” means a pension benefit, payment of which is deferred until the person entitled to the pension benefit reaches the normal retirement date under the pension plan;

“defined benefit” means a pension benefit other than a defined contribution benefit;

“defined contribution benefit” means a pension benefit determined with reference to and provided by contributions, and the interest on the contributions, paid by or for the credit of a member and determined on an individual account basis;

“designated province” means a province or territory of Canada that is prescribed by the regulations as a province or territory in which there is in force legislation substantially similar to this Act;

“employee” means a natural person who is employed by an employer;

“employer”, in relation to a pension plan, a member of a pension plan or a former member of a pension plan, means the employer required to make contributions under the pension plan;

“file” means file with the Superintendent;

“former member” means a person who has terminated employment or membership in a pension plan, and,

- (a) is entitled to a deferred pension payable from the pension fund,
- (b) is in receipt of a pension payable from the pension fund,
- (c) is entitled to commence receiving payment of pension benefits from the pension fund within one year after termination of employment or membership, or
- (d) is entitled to receive any other payment from the pension fund;

“Guarantee Fund” means the Pension Benefits Guarantee Fund continued by this Act;

“insurance company” means a corporation authorized to undertake life insurance in Canada;

“joint and survivor pension” means a pension payable for life to the person entitled to the pension and thereafter in whole or in part for life to the survivor of the person and the person’s spouse;

“member” means a member of the pension plan;

“Minister” means the member of the Executive Council designated by the Lieutenant Governor in Council for the purposes of this Act;

“multi-employer pension plan” means a pension plan established and maintained for employees of two or more employers who contribute or on whose behalf contributions are made to a pension fund by reason of agreement, statute or municipal by-law to provide a pension benefit that is determined by service with one or more of the employers, but does not include a pension plan where all the employers are affiliates within the meaning of the *Business Corporations Act*, 1982; 1982, c. 4

“normal retirement date” means the date or age specified in the pension plan as the normal retirement date of members;

“partial wind up” means the termination of part of a pension plan and the distribution of the assets of the pension fund related to that part of the pension plan;

“participating employer”, in relation to a multi-employer pension plan, means an employer required to make contributions to the multi-employer pension plan;

“pension” means a pension benefit that is in payment;

“pension benefit” means the aggregate monthly, annual or other periodic amounts payable to a member or former member during the lifetime of the member or former member, to which the member or former member will become entitled under the pension plan upon attainment of normal retirement date or to which any other person is entitled upon the death of a member or former member;

“pension committee” means a committee that is the administrator of a pension plan;

“pension fund” means the fund maintained to provide benefits under or related to the pension plan;

“pension plan” means a plan organized and administered to provide pensions for members under which the employer or employers of members of the pension plan are required to make contributions, but does not include,

- (a) an employees’ profit sharing plan or a deferred profit sharing plan as defined in sections 144 and 147 of the *Income Tax Act* (Canada),

R.S.C. 1952,
c. 148

(b) a plan to provide a retiring allowance as defined in subsection 248 (1) of the *Income Tax Act* (Canada), or

(c) any other prescribed type of plan;

“prescribed” means prescribed by the regulations;

“qualification date” means, in respect of Ontario, the 1st day of January, 1965, and, in respect of a designated province, the date on which under the law of the designated province a pension plan must be registered by the proper authority in the designated province;

“reciprocal transfer agreement” means an agreement related to two or more pension plans that provides for the transfer of moneys or credits for employment or both in respect of individual members;

“registration” means registration under this Act;

“regulations” means regulations made under this Act;

“spouse” means either of a man and woman who,

(a) are married to each other, or

(b) are not married to each other and are living together in a conjugal relationship,

(i) continuously for a period of not less than three years, or

(ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child, both as defined in the *Family Law Act, 1986*;

1986, c. 4

“Superintendent” means Superintendent of Pensions;

“surplus” means the excess of the value of the assets of a pension fund related to a pension plan over the value of the liabilities under the pension plan, both calculated in the prescribed manner;

“termination”, in relation to employment, includes retirement and death;

R.S.O. 1980,
c. 228

“trade union” has the same meaning as in the *Labour Relations Act*;

“wind up” means the termination of a pension plan and the distribution of the assets of the pension fund;

“Year’s Maximum Pensionable Earnings” has the same meaning as in the *Canada Pension Plan*.

R.S.C. 1970,
c. C-5

APPLICATION

2. This Act binds the Crown.

Crown bound

3. This Act applies to every pension plan that is provided for persons employed in Ontario.

Employees
in Ontario

4.—(1) For the purposes of this Act, a person shall be deemed to be employed in the province in which the establishment of his or her employer is located and to which the person is required to report for work.

Place of
employment

(2) A person who is not required to report for work at an establishment of his or her employer shall be deemed to be employed in the province in which is located the establishment of his or her employer from which the person’s remuneration is paid.

Idem

5. The requirements of this Act and the regulations shall not be construed to prevent the registration or administration of a pension plan and related pension fund that provide pension benefits or ancillary benefits more advantageous to members than those required by this Act and the regulations.

Greater
pension
benefits

REGISTRATION AND ADMINISTRATION

6.—(1) No person shall administer a pension plan unless a certificate of registration or an acknowledgment of application for registration of the pension plan has been issued by the Superintendent.

Prohibition
of adminis-
tration of
unregistered
pension plan

(2) Subsection (1) does not apply to prevent administration during the first ninety days after the establishment of the pension plan.

Application
of subs. (1)

7.—(1) No person shall administer a pension plan if registration of the pension plan has been refused or revoked by the Superintendent.

Refusal or
revocation

(2) Subsection (1) does not apply to prevent administration for the purpose of wind up of a pension plan.

Exception

8.—(1) A pension plan is not eligible for registration unless it is administered by an administrator who is,

Adminis-
trator

- (a) the employer or employers;
- (b) a pension committee composed of one or more representatives of,
 - (i) the employer or employers, or any person, other than the employer or employers, required to make contributions under the pension plan, and
 - (ii) members of the pension plan;
- (c) a pension committee composed of representatives of members of the pension plan;
- (d) the insurance company that provides the pension benefits under the pension plan, if all the pension benefits under the pension plan are guaranteed by the insurance company;
- (e) if the pension plan is a multi-employer pension plan established pursuant to a collective agreement, a board of trustees appointed pursuant to the pension plan or a trust agreement establishing the pension plan of whom at least one-half are representatives of members of the multi-employer pension plan; or
- (f) a board, agency or commission made responsible by an Act of the Legislature for the administration of the pension plan.

Additional
members

(2) A pension committee, or a board of trustees, that is the administrator of a pension plan may include a representative or representatives of persons who are receiving pensions under the pension plan.

Affiliate
1982, c. 4

(3) For the purpose of clause (1) (b), "employer" includes "affiliate" as defined in the *Business Corporations Act, 1982*, if the employer is a body corporate.

Application
for
registration

9.—(1) The administrator of a pension plan shall apply to the Superintendent, within sixty days after the date on which the pension plan is established, for registration of the pension plan.

Requirements
for
registration

(2) An application for registration shall be made by paying the prescribed fee to the Commission and filing,

- (a) a completed application in the prescribed form;

- (b) certified copies of the documents that create and support the pension plan;
- (c) certified copies of the documents that create and support the pension fund;
- (d) a certified copy of any reciprocal transfer agreement related to the pension plan;
- (e) a certified copy of the explanations and other information provided under subsection 26 (1); and
- (f) any other prescribed documents.

(3) For the purpose of subsection (2), “document” includes “collective agreement”. Collective agreement

10.—(1) The documents that create and support a pension plan shall set out the following information: Contents of pension plan

1. The method of appointment and the details of appointment of the administrator of the pension plan.
2. The conditions for membership in the pension plan.
3. The benefits and rights that are to accrue upon termination of employment, termination of membership, retirement or death.
4. The normal retirement date under the pension plan.
5. The contributions or the method of calculating the contributions required by the pension plan.
6. The method of determining benefits payable under the pension plan.
7. The method of calculating interest to be credited to contributions under the pension plan.
8. The mechanism for payment of the cost of administration of the pension plan and pension fund.
9. The mechanism for establishing and maintaining the pension fund.
10. The treatment of surplus during the continuation of the pension plan and on the wind up of the pension plan.

11. The obligation of the administrator to provide members with information and documents required to be disclosed under this Act and the regulations.
12. Any other prescribed information related to the pension plan or pension fund or both.

Multi-
employer
pension plan

(2) The documents that create and support a multi-employer pension plan pursuant to a collective agreement shall set out the powers and duties of the board of trustees that is the administrator of the multi-employer pension plan.

Gradual and
uniform
accrual of
pension
benefits

11.—(1) A pension plan is not eligible for registration unless it provides for the accrual of pension benefits in a gradual and uniform manner.

Variable
contributions
or pension
benefits

(2) A pension plan is not eligible for registration if the formula for computation of the employer's contributions to the pension fund or the pension benefit provided under the pension plan is variable at the discretion of the employer.

Variable
deferred
profit-sharing

(3) A deferred profit-sharing pension plan or a pension plan that provides defined contribution benefits is not eligible for registration if the formula governing allocation of contributions to the pension fund and profits among members of the plan is variable at the discretion of the employer.

Exception

(4) Notwithstanding subsections (1), (2) and (3), the Superintendent may register a pension plan if the Superintendent is of the opinion that registration is justified in the circumstances of the pension plan and the members.

Application
for
registration
of
amendment

12.—(1) The administrator of a pension plan shall apply to the Superintendent, within sixty days after the date on which the pension plan is amended, for registration of the amendment.

Requirements
for
registration

(2) An application for registration of an amendment shall be made by paying the prescribed fee to the Commission and filing,

- (a) a certified copy of the amending document;
- (b) certified copies of any other prescribed documents;
and
- (c) any other prescribed information.

(3) The administrator of a pension plan shall file a certified copy of each document that changes the documents that create and support the pension plan or pension fund.

Filing of
changes

13.—(1) An amendment to a pension plan is not effective until an application for registration of the amendment is made in accordance with this Act and the regulations.

When
amendment
becomes
effective

(2) An amendment to a pension plan may be made effective as of a date before the date on which the amendment is registered.

Retroactive
amendment

14.—(1) An amendment to a pension plan is void if the amendment purports to reduce,

Reduction
of benefits

- (a) the amount or the commuted value of a pension benefit accrued under the pension plan with respect to employment before the effective date of the amendment;
- (b) the amount or the commuted value of a pension or a deferred pension accrued under the pension plan; or
- (c) the amount or the commuted value of an ancillary benefit that a member or a former member is receiving or for which a member has satisfied all eligibility conditions.

(2) Subsection (1) does not apply in respect of a multi-employer pension plan established pursuant to a collective agreement.

Application
of subs. (1)

(3) Subsection (1) does not apply in respect of a pension plan that provides defined benefits if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement.

Idem

15. The Superintendent shall issue an acknowledgment of application for registration of a pension plan within thirty days after receiving an application for the registration that complies with this Act and the regulations.

Acknowledgment of
application
for
registration

16. The Superintendent shall issue a certificate of registration for each pension plan registered under this Act.

Issuance of
certificate of
registration

17. The Superintendent shall issue a notice of registration for each amendment to a pension plan registered under this Act.

Issuance of
notice of
registration

Refusal or
revocation of
registration

18.—(1) The Superintendent may,

- (a) refuse to register a pension plan that does not comply with this Act and the regulations;
- (b) revoke the registration of a pension plan that does not comply with this Act and the regulations;
- (c) revoke the registration of a pension plan that is not being administered in accordance with this Act and the regulations;
- (d) refuse to register an amendment to a pension plan if the amendment is void or if the pension plan with the amendment would cease to comply with this Act and the regulations;
- (e) revoke the registration of an amendment that does not comply with this Act and the regulations.

Application
of subs. (1)

(2) The authority of the Superintendent under subsection (1) is subject to the right to a hearing under section 90.

Effect of
refusal or
revocation

(3) A refusal of registration of a pension plan or a revocation of registration of a pension plan operates to terminate the pension plan as of the date specified by the Superintendent.

Idem

(4) A refusal of registration of an amendment to a pension plan or the revocation of an amendment to a pension plan operates to terminate the amendment as of the date specified by the Superintendent.

Wind up

(5) Where registration of a pension plan is refused or revoked, the administrator shall wind up the pension plan in accordance with this Act and the regulations.

Conforming
amendment

19.—(1) Every employer who maintains a pension plan on the date this Act comes into force shall amend the pension plan to conform with this Act and the regulations within two years after the date this Act comes into force.

Exception

R.S.O. 1980,
c. 228

(2) If a pension plan is governed by a collective agreement or an arbitration award made under the *Labour Relations Act* that requires a provision contrary to this Act or the regulations and that is in effect on the date this section comes into force, the parties to the collective agreement or arbitration award shall amend the pension plan to conform to this Act and the regulations not later than the earlier of,

- (a) the date that is three years after the date on which this section comes into force; or
- (b) the day immediately after the date on which the collective agreement or arbitration award expires.

(3) The Superintendent shall not refuse to register a pension plan that is governed by a collective agreement or an arbitration award made under the *Labour Relations Act* that requires a provision contrary to this Act or the regulations and that is the subject of an application for registration submitted after the 31st day of December, 1986 if the pension plan would have been eligible for registration under the *Pension Benefits Act*.

Registration

R.S.O. 1980,
cc. 228, 373

20.—(1) The administrator of a pension plan shall ensure that the pension plan and the pension fund are administered in accordance with this Act and the regulations.

Duty of
administrator

(2) The administrator of a pension plan shall ensure that the pension plan and the pension fund are administered in accordance with,

Idem

- (a) the filed documents in respect of which the Superintendent has issued an acknowledgment of application for registration or a certificate of registration, whichever is issued later; and
- (b) the filed documents in respect of an application for registration of an amendment to the pension plan, if the application complies with this Act and the regulations and the amendment is not void under this Act.

(3) The administrator of a pension plan may administer or permit administration of the pension plan and the pension fund in accordance with an amendment pending registration or refusal of registration of the amendment.

Idem,
amendment

21.—(1) The administrator of a pension plan shall file each year an annual information return in respect of the pension plan in the prescribed form and shall pay the prescribed filing fee.

Adminis-
trator's
annual
information
return

(2) The administrator of a pension plan shall file additional reports at the times and containing the information prescribed by the regulations.

Additional
reports

Reciprocal
transfer
agreement

22. An administrator of a pension plan shall file a certified copy of a reciprocal transfer agreement entered into in respect of the pension plan.

Care,
diligence
and skill

23.—(1) The administrator of a pension plan shall exercise the care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person.

Special
knowledge
and skill

(2) The administrator or, if the administrator is a committee or a board of trustees, a member of the committee or board that is the administrator of a pension plan shall use in the administration of the pension plan, and in the administration and investment of the pension fund, all relevant knowledge and skill that the administrator or member possesses or, by reason of his or her profession, business or calling, ought to possess.

Conflict of
interest

(3) An administrator or, if the administrator is a pension committee or a board of trustees, a member of the committee or board that is the administrator of a pension plan shall not knowingly permit his or her interest to conflict with his or her duties and powers in respect of the pension fund.

Employment
of agent

(4) Where it is reasonable and prudent in the circumstances so to do, the administrator of a pension plan may employ one or more agents to carry out any act required to be done in the administration of the pension plan and in the administration and investment of the pension fund.

Responsi-
bility
for agent

(5) An administrator of a pension plan who employs an agent shall personally select the agent and be satisfied of the agent's suitability to perform the act for which the agent is employed, and the administrator shall carry out such supervision of the agent as is prudent and reasonable.

Employee
or agent

(6) An employee or agent of an administrator is also subject to the standards that apply to the administrator under subsections (1), (2) and (3).

Benefit by
administrator

(7) The administrator of a pension plan or, if the administrator is a pension committee or a board of trustees, a member of the committee or board is not entitled to any benefit from the pension plan other than pension benefits and fees and expenses related to the administration of the pension plan and permitted by the common law or provided for in the pension plan.

Payment
to agent

(8) An agent of the administrator of a pension plan is not entitled to payment from the pension fund other than the

usual and reasonable fees and expenses for the services provided by the agent in respect of the pension plan.

24. An employer shall provide to the administrator of the pension plan any information required by the administrator for the purpose of complying with the terms of the pension plan or of this Act or the regulations. Information from employer

25.—(1) The members of a pension plan by a majority vote may establish an advisory committee. Advisory committee

(2) Each class of employees that is represented in the pension plan is entitled to appoint at least one representative to the advisory committee established under subsection (1). Representation

(3) The purposes of an advisory committee are, Purposes

- (a) to monitor the administration of the pension plan;
- (b) to make recommendations to the administrator respecting the administration of the pension plan; and
- (c) to promote awareness and understanding of the pension plan on the part of members of the pension plan and persons receiving pension benefits under the pension plan.

(4) The advisory committee or its representative has the right to examine the records of the administrator in respect of the administration of the pension plan and to make extracts from and copies of the records, but this subsection does not apply in respect of information as to the service, salary, pension benefits or other personal information related to any specific person without the person's prior consent. Examination of records

(5) Subsection (1) does not apply, Application of subs. (1)

- (a) if the pension plan is administered by a pension committee at least one of the members of which is appointed by the members of the pension plan; or
- (b) in respect of a multi-employer pension plan established pursuant to a collective agreement.

(6) The administrator of a pension plan shall provide to the advisory committee or its representative such information as is under the control of the administrator and is required by the advisory committee or its representative for the purposes of the committee. Administrator to provide information

DISCLOSURE OF INFORMATION

Information
from
administrator

26.—(1) The administrator of a pension plan shall provide in writing to each person who will be eligible or is required to become a member of the pension plan,

- (a) an explanation of the provisions of the plan that apply to the person;
- (b) an explanation of the person's rights and obligations in respect of the pension plan; and
- (c) any other information prescribed by the regulations.

Time

(2) The administrator shall provide the information mentioned in subsection (1),

- (a) to each person who becomes a member within the prescribed period of time after the date on which the pension plan is established;
- (b) to a person who is likely to become eligible to become a member of the pension plan, within the prescribed period of time before the date on which the person is likely to become eligible;
- (c) to each person who becomes eligible to become a member of the pension plan upon becoming employed by the employer, within the prescribed period of time after the date on which the person becomes so employed.

Information
from
employer

(3) The employer shall transmit to the administrator the information necessary to enable the administrator to comply with subsection (2) and shall transmit the information in sufficient time to enable the administrator to comply with the time limits set out in that subsection.

Notice of
proposed
amendment

27.—(1) If the administrator of a pension plan applies for registration of an amendment to the pension plan that may adversely affect the pension benefits, rights or obligations of a member or former member or a person entitled to payments from the pension fund, the Superintendent shall require the administrator to transmit to each such member, former member or other person a written notice containing an explanation of the amendment and inviting comments to be submitted to the administrator and the Superintendent, and the administrator shall provide to the Superintendent a copy of the notice and shall certify to the Superintendent the date on which the last such notice was transmitted.

(2) If the Superintendent has required the administrator to transmit notices under subsection (1), the Superintendent shall not register an amendment mentioned in that subsection before the expiration of forty-five days after the date certified to the Superintendent under that subsection, but after the expiration of the forty-five day period the Superintendent may register the amendment with such changes as are requested in writing by the administrator.

Registration

(3) Within the prescribed period of time after an amendment to a pension plan is registered, the administrator shall transmit notice and an explanation of the amendment to each member, former member and other person affected by the amendment.

Notice after
registration

(4) The Superintendent need not require the transmittal of notices under subsection (1) or by order may dispense with the notice required by subsection (3), or both, if the Superintendent is of the opinion that the amendment is of a technical nature and will not substantially affect the pension benefits, rights or obligations of a member or former member or a person entitled to payments from the pension fund or if the amendment has been agreed to by a trade union that represents the members.

Order
dispensing
with notice

28. The administrator of a pension plan shall transmit annually to each member a written statement containing the prescribed information in respect of the pension plan, the member's pension benefits and any ancillary benefits.

Annual
statement of
pension
benefits

29.—(1) Where a member of a pension plan terminates employment with the employer or otherwise ceases to be a member, the administrator of the pension plan shall give to the member, or to any other person who as a result becomes entitled to a payment under the pension plan, a written statement setting out the prescribed information in respect of the benefits, rights and obligations of the member or other person.

Statement
of benefits

(2) Subsection (1) applies in respect of a multi-employer pension plan where a member ceases to be a member, but does not apply where a member terminates employment with an employer but continues to be a member.

Multi-
employer
pension plan

30.—(1) On written request, the administrator of a pension plan shall make available the prescribed documents and information in respect of the pension plan for inspection without charge by,

Inspection of
adminis-
trator's
documents

(a) a member;

- (b) a former member;
- (c) the spouse of a member or former member;
- (d) an agent authorized in writing by a member, former member or the spouse of a member or former member; or
- (e) a representative of a trade union that represents members of the pension plan.

Place of
inspection

(2) The administrator shall make the prescribed documents and information available,

- (a) for a member, at the premises of the employer where the member is employed;
- (b) for a former member, at the premises where the former member was employed; or
- (c) for a member, former member or any other person, at such other location as may be agreed upon by the administrator and the member, former member or other person making the request.

Extracts
or copies

(3) The administrator shall permit the person making the inspection to make extracts from or to copy the prescribed documents and information.

Idem

(4) On request, the administrator shall provide the person making the inspection with copies of any of the prescribed documents or information upon payment to the administrator of a reasonable fee.

Limitation

(5) A member, former member or spouse, or the agent of any of them, or a trade union by a representative, is entitled to make an inspection under subsection (1) not more than once in a calendar year.

Inspection
of filed
documents

31.—(1) The persons mentioned in subsection (2) are entitled to inspect at the offices of the Commission during business hours of the Commission the documents that comprise a pension plan and such other prescribed documents as are filed in respect of the pension plan, and are entitled to copies of the documents upon payment of the prescribed fees.

Persons
entitled to
inspect

(2) The persons entitled to make the inspection in respect of a pension plan are,

- (a) a member;

- (b) a former member;
- (c) the spouse of a member or former member;
- (d) an agent authorized in writing by a member, former member or the spouse of a member or former member; or
- (e) a representative of a trade union that represents members of the pension plan.

MEMBERSHIP

32.—(1) Every employee of a class of employees for whom a pension plan is established is eligible to be a member of the pension plan.

Eligibility
for
membership

(2) An employee in a class of employees for whom a pension plan is maintained is entitled to become a member of the pension plan upon application at any time after completing twenty-four months of continuous full-time employment.

Full-time
employment

(3) A pension plan may require not more than twenty-four months of less than full-time continuous employment with the employer with earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings in each of two consecutive calendar years immediately prior to membership in the pension plan, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the pension plan.

Part-time
employment

(4) A multi-employer pension plan may require a total of not more than twenty-four months of employment by one or more of the participating employers and earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings in each of the two consecutive calendar years immediately before the year in which membership is applied for, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the multi-employer pension plan.

Multi-
employer
pension plan

(5) The Superintendent may give the approval mentioned in subsection (3) or (4) if the Superintendent is of the opinion that the basis is equivalent in the circumstances to the earnings mentioned in the subsection.

Approval

33. A member of a pension plan who is employed continuously on a less than full-time basis does not cease to be a member by reason only that he or she has earnings of less

Loss of
membership

than 35 per cent of the Year's Maximum Pensionable Earnings in a calendar year.

Dispute as to member of class of employees

34.—(1) Where there is a dispute as to whether or not an employee is a member of a class of employees for whom a pension plan is established or maintained, the Superintendent, subject to section 90, by order may require the administrator to accept the employee as a member.

Ground for order

(2) The Superintendent may make the order if the Superintendent is of the opinion that, on the basis of the nature of the employment or of the terms of employment of the employee, the employee is a member of the class.

Separate pension plan

35. An employer may establish or maintain a separate pension plan for employees employed in less than full-time continuous employment if the separate pension plan provides pension benefits and other benefits reasonably equivalent to those provided under the pension plan maintained by the employer for employees of the same class employed in full-time continuous employment.

RETIREMENT AND VESTING

Right to pension

36.—(1) A member of a pension plan is entitled to a pension under the pension plan calculated in accordance with the benefit formula of the pension plan if,

- (a) the member's employment with the employer is terminated on or after the normal retirement date under the pension plan;
- (b) in respect of employment before the 1st day of January, 1987, the member was employed by the employer, or was a member of the pension plan, for a continuous period of at least ten years at the date of termination of the employment; and
- (c) in respect of employment after the 31st day of December, 1986, the member was a member of the pension plan for a continuous period of at least twenty-four months.

Normal retirement date

(2) The normal retirement date under a pension plan submitted for registration after the 31st day of December, 1986 shall not be later than one year after the attainment of sixty-five years of age.

Transitional

(3) Every pension plan registered or submitted for registration before the 1st day of January, 1987 shall be deemed to

specify a normal retirement date in respect of pension benefits that accrue after the 31st day of December, 1986 that is not later than one year after the attainment of sixty-five years of age, unless the pension plan specifies an earlier normal retirement date.

(4) A member of a pension plan who continues to be employed by the employer after the normal retirement date and who is not receiving a pension under the pension plan, has the right to continue to be a member of the pension plan to the date of termination of the employment and has the right to continue to accrue pension benefits calculated in accordance with the benefit and contribution formula of the pension plan to the date of termination of the employment to the maximum benefits allowed under the pension plan.

Continuation
after normal
retirement
date

37.—(1) A member of a pension plan who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3).

Deferred
pension
for past
service

(2) The qualifications are,

Qualifications

- (a) that the member must have been employed by the employer, or have been a member of the pension plan, for a continuous period of at least ten years;
- (b) that the member must have reached the age of forty-five years; and
- (c) that the member must terminate his or her employment with the employer before reaching the normal retirement date under the pension plan.

(3) The benefit is a deferred pension equal to the pension benefit provided under the pension plan as it existed on the 31st day of December, 1986 in respect of employment before the 1st day of January, 1987 in Ontario or in a designated province,

Amount

- (a) under the terms of the pension plan, with respect to employment on or after the qualification date;
- (b) by an amendment to the pension plan made on or after the qualification date; and
- (c) by the creation of a new pension plan on or after the qualification date.

(4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions.

Application
of
subss. (1-3)

Deferred
pension

38.—(1) A member of a pension plan who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3).

Qualifications

(2) The qualifications are,

- (a) that the member must be a member after the 31st day of December, 1986;
- (b) that the member must be a member for a continuous period of at least twenty-four months; and
- (c) that the member must terminate his or her employment with the employer before reaching the normal retirement date under the pension plan.

Amount

(3) The benefit is a deferred pension equal to the pension benefit provided in respect of employment in Ontario or in a designated province,

- (a) under the pension plan in respect of employment by the employer after the later of the 31st day of December, 1986 or the qualification date if the qualification date is later than the 31st day of December, 1986;
- (b) under any amendment made to the pension plan after the 31st day of December, 1986; and
- (c) under any new pension plan established after the 31st day of December, 1986 for members of the pension plan.

Application
of
subss. (1-3)

(4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions.

Termination
by member

39.—(1) A person who is,

- (a) a member of a multi-employer pension plan;
- (b) a member of a pension plan who is employed by the employer on a less than full-time basis; or
- (c) a member of a pension plan who has been laid off from employment by the employer,

is entitled to terminate his or her membership in the pension plan if no contributions are paid or are required to be paid to the pension fund by or on behalf of the member for twenty-

four consecutive months or for such shorter period of time as is specified in the pension plan.

(2) For the purpose of determining benefits under this Act, a person who terminates his or her membership in a pension plan shall be deemed to have terminated his or her employment. Effect of termination

(3) Subsections (1) and (2) do not apply if contributions are not paid or are not required to be paid because the person has become a member of another pension plan and there is a reciprocal transfer agreement respecting the two pension plans. Application of subss. (1, 2)

BENEFITS

40.—(1) If the commuted value of a member's deferred pension accrued prior to the 1st day of January, 1987 is less than the value of the contributions the member was required to make under the pension plan prior to that date plus interest credited to the contributions, the member is entitled to have the commuted value of the deferred pension increased so that the commuted value is equal to the value of the contributions and the interest. Value of deferred pension

(2) An increase in the value of the deferred pension resulting from an amendment to the pension plan made after the 31st day of December, 1986 shall not be included in calculating the commuted value of the deferred pension for the purposes of subsection (1). Effect of amendment

(3) A member's contributions made after the 31st day of December, 1986 under a pension plan shall not be used to provide more than 50 per cent of the commuted value of the pension or deferred pension in respect of the contributory benefit accrued after that date to which the member is entitled under the pension plan on termination of membership or employment by the employer. 50 per cent rule

(4) A member mentioned in subsection (3) is entitled upon termination of employment or membership to payment from the pension fund of an amount equal to the amount by which the member's contributions under the pension plan plus the interest on the contributions exceeds one-half of the commuted value of the member's pension or deferred pension in respect of the contributory benefit accrued after the 31st day of December, 1986. Entitlement to excess amount

Application
of
subss. (3, 4)

(5) Subsections (3) and (4) do not apply in respect of a defined contribution benefit or a benefit from additional voluntary contributions.

Matters that
may be
included

(6) The following may be included by the administrator of the pension plan in calculating a member's contributory benefit for the purposes of subsection (3):

1. Ancillary benefits related to employment after the 31st day of December, 1986.
2. Increases to pension benefits and ancillary benefits related to employment before the date of the amendment resulting from an amendment to the pension plan made after the 31st day of December, 1986.
3. Pension benefits and ancillary benefits related to employment before the date of the establishment of the pension plan, in the case of a pension plan established after the 31st day of December, 1986.

Ancillary
benefits

41.—(1) A pension plan may provide the following ancillary benefits:

1. Disability benefits.
2. Death benefits in excess of those provided in section 49 (pre-retirement death benefit).
3. Bridging benefits.
4. Supplemental benefits, other than bridging benefits, payable for a temporary period of time.
5. Early retirement options and benefits in excess of those provided by section 42 (early retirement option).
6. Postponed retirement options and benefits in excess of those referred to in subsection 36 (4).
7. Any prescribed ancillary benefit.

Use in
calculating
pension
benefit

(2) An ancillary benefit for which a member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit shall be included in calculating the member's pension benefit or the commuted value of the pension benefit.

42.—(1) A former member is entitled to elect to receive an early retirement pension under the pension plan if he or she, Early retirement option

- (a) terminated employment with the employer after the 31st day of December, 1986;
- (b) is entitled to a deferred pension under this Act; and
- (c) is within ten years of attaining the normal retirement date.

(2) A member who is within ten years of attaining the normal retirement date and who would be entitled to a deferred pension on termination of employment with the employer is entitled upon termination of the employment or on the wind up of the pension plan in whole or in part to receive an early retirement pension under the pension plan. Idem

(3) The commuted value of a member's early retirement pension must be not less than the commuted value of the member's pension benefit under the pension plan. Commuted value

(4) The commuted value of a former member's early retirement pension must be not less than the commuted value of the former member's deferred pension benefit under the pension plan. Idem, former member

(5) The member or former member is entitled to require the commencement of payment of the early retirement pension at any time within the ten year period mentioned in subsection (1) or (2). Payment

(6) An election under subsection (1) or (2) shall be made in writing, signed by the member or former member and delivered to the administrator of the pension plan. Election

43.—(1) A member of a pension plan whose employment with the employer is terminated and who is entitled to a deferred pension is entitled to require the administrator to pay the commuted value of the deferred pension, Transfer

- (a) to the pension fund related to another pension plan, if the administrator of the other pension plan agrees to accept the payment;
- (b) into a prescribed retirement savings arrangement; or

- (c) for the purchase for the member of a deferred life annuity under which payments will not commence more than ten years before the normal retirement date under the pension plan.

Limitation

(2) The entitlement under subsection (1) is subject to the prescribed limitations in respect of the transfer of funds from pension funds.

Application of subs. (1)

(3) Subsection (1) does not apply to a member whose employment is terminated and who is entitled to immediate payment of a pension benefit under the pension plan or under section 42, unless the pension plan provides such an entitlement.

Direction

(4) A member may exercise his or her entitlement under subsection (1) by delivering to the administrator within the prescribed period of time a direction in a form supplied by the Superintendent.

Compliance with direction

(5) Subject to compliance with the requirements of this section and the regulations, the administrator shall comply with the direction within the prescribed period of time after delivery of the direction.

Terms of arrangement or deferred annuity

(6) The administrator shall not make payment,

- (a) under clause (1) (b) unless the retirement savings arrangement meets the requirements prescribed by the regulations; or
- (b) under clause (1) (c) unless the contract to purchase the deferred life annuity meets the prescribed requirements and payments under the deferred life annuity will not commence more than ten years before the normal retirement date under the pension plan.

Approval

(7) If a payment under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the payment without the approval of the Superintendent.

Terms and conditions

(8) The Superintendent may approve the payment subject to such terms and conditions as the Superintendent considers appropriate in the circumstances.

Order for repayment

(9) If a payment that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is

failure to comply with a term or condition attached to the approval, the Superintendent by order, subject to section 90 (hearing), may require any person to whom payment under subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon.

(10) Subject to section 90 (hearing and appeal), an order for payment under subsection (9), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

44.—(1) The administrator of a pension plan who is required by the pension plan to provide a pension, a deferred pension or an ancillary benefit may purchase the pension, deferred pension or ancillary benefit from an insurance company. Purchase of pension

(2) The authority of the administrator under subsection (1) is subject to the entitlement of a member under section 43 and to the limitations prescribed in relation to transfers of funds from pension funds. Limitations

(3) If a purchase under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the purchase without the prior approval of the Superintendent. Approval by Superintendent

(4) The Superintendent may approve a purchase mentioned in subsection (3) subject to such terms and conditions as the Superintendent considers appropriate in the circumstances. Idem

(5) If a purchase that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is a failure to comply with a term or condition attached to the approval, the Superintendent, subject to section 90 (hearing), by order may require any person to whom payment under subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon. Order for repayment

(6) Subject to section 90 (hearing and appeal), an order for payment under subsection (5), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

45.—(1) Every pension paid under a pension plan to a former member who has a spouse on the date that the pay- Joint and survivor pension benefits

ment of the first instalment of the pension is due shall be a joint and survivor pension.

Commuted
value

(2) The commuted value of a joint and survivor pension under subsection (1) shall not be less than the commuted value of the pension that would be payable under the pension plan to the former member.

Amount of
survivor
benefit

(3) The amount of the pension payable to the survivor of the former member and the spouse of the former member shall not be less than 60 per cent of the pension paid to the former member during the joint lives of the former member and his or her spouse.

Application
of
subss. (1-3)

(4) Subsections (1) to (3) do not apply,

- (a) in respect of a pension benefit if payment of the pension has commenced before the 1st day of January, 1987; or
- (b) in respect of a former member who is living separate and apart from his or her spouse on the date that payment of the first instalment of the pension is due.

Information
for payment

46.—(1) Before commencing payment of a pension or pension benefit, the administrator of a pension plan shall require the person entitled to the payment to provide to the administrator the information needed to calculate and pay the pension or pension benefit.

Person to
provide
information

(2) The person entitled to the payment shall provide the information to the administrator.

Discharge
of
administrator

(3) In the absence of actual notice to the contrary, the administrator is discharged on paying the pension or pension benefit in accordance with the information provided by the person in accordance with subsection (2) or, if the person does not provide the information, in accordance with the latest information in the records of the administrator.

Waiver of
joint and
survivor
pension
benefit

47.—(1) The persons entitled to a joint and survivor pension benefit may waive the entitlement by delivering to the administrator of the pension plan a written direction in the form that shall be supplied by the Superintendent or a certified copy of a domestic contract, as defined in Part IV of the *Family Law Act, 1986*, containing the waiver.

1986, c. 4

Time

(2) The waiver is not effective unless the written direction or certified copy is delivered to the administrator within the

period of twelve months immediately preceding the commencement of payment of the pension benefit.

(3) Persons who have delivered a waiver under subsection (1) may jointly cancel the waiver by written and signed notice delivered to the administrator before commencement of payment of the pension benefit.

Cancellation
of waiver

48.—(1) The spouse of a deceased former member of a pension plan who is receiving a pension under the pension plan is not disentitled to payment of the pension by reason only of remarriage after the death of the former member.

Remarriage
of spouse

(2) Subsection (1) applies in respect of pensions that are being paid on the 1st day of January, 1987 or that commence to be paid after the 31st day of December, 1986.

Application
of subs. (1)

49.—(1) If a person entitled under a pension plan to a deferred pension described in section 38 (entitlement to deferred pension) dies before commencement of payment of the deferred pension, the person's spouse on the date of death is entitled,

Pre-
retirement
death
benefit

- (a) to receive payment of an amount equal to the commuted value of the deferred pension; or
- (b) to an immediate or deferred pension the commuted value of which is at least equal to the commuted value of the deferred pension.

(2) The spouse shall elect within the prescribed period of time to receive payment under clause (1) (a) or to receive an immediate or deferred pension under clause (1) (b), or, if the spouse does not so elect, the spouse shall be deemed to have elected to receive payment under clause (1) (a).

Election

(3) If a member of a pension plan dies while employed by the employer, entitlement to a deferred pension and the commuted value of the deferred pension shall be calculated as if the person's employment were terminated immediately before the person's death.

Idem

(4) A member or former member of a pension plan may designate a beneficiary and the beneficiary is entitled to be paid an amount equal to the commuted value of the deferred pension mentioned in subsection (1) if the member or former member does not have a spouse on the date of the death of the member or former member.

Designated
beneficiary

Estate
entitlement

(5) If the member or former member does not have a spouse and has not designated a beneficiary under subsection (4), the estate of the member or former member is entitled to receive payment of the commuted value.

Person to
provide
information

(6) The person entitled to the payment shall provide to the administrator the information needed to make the payment.

Discharge of
administrator

(7) In the absence of actual notice to the contrary, the administrator is discharged on making payment in accordance with the information provided by the person.

Application
of subs. (1)

(8) Subsection (1) does not apply if the person and the person's spouse are living separate and apart on the date of the person's death.

Offset

(9) A pension plan may provide for a reduction of the amount payable under clause (1) (a) or (b) to offset that part of an additional benefit that is attributable to an amount paid by the employer to provide the additional benefit, subject to the following:

1. The amount of the reduction shall be calculated in the prescribed manner.
2. The amount of the reduction shall not exceed the prescribed limit or the limit calculated in the prescribed manner.
3. No reduction shall be made unless the additional benefit is provided under the prescribed type of agreement.

Variation of
payment to
disabled
person

50. A pension plan may permit variation in the terms of payment of a pension or deferred pension by reason of the mental or physical disability of a member or former member that is likely to shorten considerably the life expectancy of the member or former member.

Commuted
value

51.—(1) A pension plan may provide for payment to a former member of the commuted value of a benefit if the annual benefit is not more than 2 per cent of the Year's Maximum Pensionable Earnings in the year that the former member terminated employment.

Idem

(2) A pension plan registered before the 1st day of January, 1987 may provide that upon termination of employment a person entitled to a deferred pension under section 37 (deferred pension) is entitled to payment of an amount not greater than 25 per cent of the commuted value of the deferred pension.

52.—(1) A domestic contract as defined in Part IV of the *Family Law Act, 1986* or an order under Part I of that Act is not effective to require payment of a pension benefit before the earlier of,

Payment on marriage
breakdown
1986, c. 4

- (a) the date on which payment of the pension benefit commences; or
- (b) the normal retirement date of the relevant member or former member.

(2) A domestic contract or an order mentioned in subsection (1) is not effective to reduce the pension benefit of a member or former member of a pension plan to less than one-half of the amount of the pension benefit accrued during the period the member or former member and the other person were spouses.

Reduction
of pension
benefit

(3) If payment of a pension or a deferred pension is divided between spouses by a domestic contract or an order mentioned in subsection (1), the administrator is discharged on making payment in accordance with the domestic contract or order.

Discharge of
administrator

(4) If a domestic contract or an order mentioned in subsection (1) affects a pension, the administrator of the pension plan shall revalue the pension in the prescribed manner.

Revaluation
of joint and
survivor
pension

(5) A spouse on whose behalf a certified copy of an order or domestic contract mentioned in subsection (1) is given to the administrator of a pension plan has the same entitlement under section 43 (transfer) in respect of the commuted value of the spouse's interest in the deferred pension as the member named in the order or domestic contract has in respect of the member's interest in the deferred pension when the member terminates his or her employment.

Transfer

53.—(1) The sex of a member, former member or other beneficiary under a pension plan shall not be taken into account in,

Discrimi-
nation
on basis of
sex

- (a) determining the amount of contributions required to be made by a member of the plan;
- (b) determining the pension benefits or the commuted value of pension benefits that a member, former member or other beneficiary is or may become entitled to;

- (c) the provision of eligibility conditions for membership; and
- (d) the provision of ancillary benefits.

Adminis-
tration

(2) In order to comply with subsection (1), the administrator may,

- (a) use annuity factors that do not differentiate as to sex;
- (b) provide for employer contributions that vary according to the sex of the employee; or
- (c) use any prescribed method of calculation or valuation.

Application

(3) This section applies in respect of contributions, benefits and conditions in relation to,

- (a) employment after the 31st day of December, 1986;
- (b) employment before the 1st day of January, 1987, in so far as it is dealt with in an amendment made to the pension plan after the 31st day of December, 1986; and
- (c) employment before the 1st day of January, 1987, in so far as it is dealt with in a pension plan established after the 31st day of December, 1986.

Discrimi-
nation
on basis of
marital status

54.—(1) Where a pension plan provides for a joint and survivor pension benefit, the commuted value of the pension benefit payable to a former member who does not have a spouse shall be equal to the commuted value of the joint and survivor pension benefit payable to a former member who does have a spouse.

Application
of subs. (1)

(2) Subsection (1) applies to pension benefits resulting from,

- (a) employment after the 31st day of December, 1986;
- (b) employment before the 1st day of January, 1987, in so far as it is dealt with in an amendment made to the pension plan after the 31st day of December, 1986; or

- (c) employment before the 1st day of January, 1987, in so far as it is dealt with in a pension plan established after the 31st day of December, 1986.

55.—(1) The reduction of a pension or a deferred pension that may be required by a pension plan in relation to payment under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada) shall not exceed the reduction calculated in accordance with the prescribed formula.

Integrated pension plan

R.S.C. 1970,
c. C-5;
R.S.Q. 1977,
c. R-9

R.S.C. 1970,
c. O-6

(2) The reduction referred to in subsection (1) shall be applied prior to any other adjustments required under the pension plan.

Idem

(3) The amount of a reduction in a pension or deferred pension required under a pension plan in relation to the payments mentioned in subsection (1) shall not be increased by reason of an increase in the amount of any of the other payments after the date of the member's termination of employment.

Further reduction

(4) A pension plan for registration of which application is made after the 31st day of December, 1986 shall not permit the reduction of a pension or a deferred pension based on a person's entitlement under the *Old Age Security Act* (Canada).

Reduction re *Old Age Security Act* (Canada)

R.S.C. 1970,
c. O-6

(5) Subsection (4) does not apply to a pension plan that is a successor of a pension plan registered under the *Pension Benefits Act* that permitted such a reduction.

Application of subs. (4)

R.S.O. 1980,
c. 373

(6) A pension plan shall not permit the reduction of a pension or deferred pension based on a person's entitlement under the *Old Age Security Act* (Canada) in respect of a benefit accrued after the 31st day of December, 1986.

Idem

(7) The value of a bridging benefit, for receipt of which a member or former member has satisfied all eligibility requirements of the pension plan before the 1st day of January, 1987, shall not be reduced by reason only of the eligibility of the member or former member to receive a payment before reaching sixty-five years of age under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada).

Bridging benefit

R.S.C. 1970,
c. C-5

R.S.Q. 1977,
c. R-9

R.S.C. 1970,
c. O-6

(8) If a pension plan provides a bridging benefit without reference to a specific age at which payment of the bridging benefit is to be reduced or to cease, the pension plan shall be

Age

deemed to provide that the bridging benefit shall be reduced or cease to be paid when the recipient of the bridging benefit reaches sixty-five years of age.

Application
of subs. (8)

(9) Subsection (8) ceases to apply to a pension plan that is amended after the 31st day of December, 1986 to establish a specific age for the purpose of determining when a bridging benefit shall be reduced or cease to be paid.

Idem

R.S.C. 1970,
c. C-5
R.S.Q. 1977,
c. R-9
R.S.C. 1970,
c. O-6

(10) If a pension plan provides for variation of a pension benefit by reason of a benefit payable under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada) without specifically stating the age at which the variation is to occur, the pension plan shall be deemed to provide that the variation is to occur when the recipient of the pension benefit reaches sixty-five years of age.

Application
of subs. (10)

(11) Subsection (10) ceases to apply to a pension plan that is amended after the 31st day of December, 1986 to specifically state the age at which variation of a pension benefit is to occur.

CONTRIBUTIONS

Funding

56.—(1) A pension plan is not eligible for registration unless it provides for funding sufficient to provide the pension benefits, ancillary benefits and other benefits under the pension plan in accordance with this Act and the regulations.

Payment

(2) An employer required to make contributions under a pension plan, or a person required to make contributions under a pension plan on behalf of an employer, shall make the contributions in the prescribed manner and in accordance with the prescribed requirements for funding,

(a) to the pension fund; or

(b) if pension benefits under the pension plan are paid by an insurance company, to the insurance company that is the administrator of the pension plan.

Notice to
Superin-
tendent

57.—(1) The administrator of a pension plan or, if there is an agent of the administrator responsible for receiving contributions under the pension plan, the administrator and the agent shall give written notice to the Superintendent of a contribution that is not paid when due.

When notice
required

(2) The administrator and the agent shall give the notice to the Superintendent within sixty days after the date on which

the administrator or the agent first became aware of the failure to pay the contribution.

58.—(1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension fund as the employee's contribution under the pension plan, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the pension fund. Trust property

(2) For the purposes of subsection (1), money withheld by an employer, whether by payroll deduction or otherwise, from moneys payable to an employee shall be deemed to be money received by the employer from the employee. Money withheld

(3) An employer who is required to pay contributions to a pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer contributions due and not paid into the pension fund. Accrued contributions

(4) Where a pension plan is wound up in whole or in part, an employer who is required to pay contributions to the pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to employer contributions accrued to the date of the wind up but not yet due under the plan or regulations. Wind up

(5) The administrator of the pension plan has a lien and charge on the assets of the employer in an amount equal to the amounts deemed to be held in trust under subsections (1), (3) and (4). Lien and charge

(6) Subsections (1), (3) and (4) apply whether or not the moneys have been kept separate and apart from other money or property of the employer. Application of subss. (1, 3, 4)

59.—(1) Money that an employer is required to pay into a pension fund accrues on a daily basis. Accrual

(2) Interest on contributions shall be calculated and credited at a rate not less than the prescribed rates and in accordance with prescribed requirements. Interest

60. The administrator may commence proceedings in a court of competent jurisdiction to obtain payment of contributions due under the pension plan, this Act and the regulations. Collection of contributions

Bond

61. The administrator of a multi-employer pension plan may require a person who receives contributions to the pension fund or who administers or invests the pension fund to be bonded in an amount required by the administrator or in the prescribed amount.

Statement of
employer's
obligation

62. An employer who is required to make contributions to a multi-employer pension plan shall transmit to the administrator of the plan a copy of the agreement that requires the employer to make the contributions or a written statement that sets out the contributions the employer is required to make and any other obligations of the employer under the pension plan.

Investment of
pension fund

63. Every person engaged in the investment of moneys of a pension fund shall ensure that the moneys are invested in accordance with this Act and the regulations.

LOCKING IN

Refunds

64.—(1) No member or former member is entitled to a refund from a pension fund of contributions made in respect of employment in Ontario or a designated province on or after the qualification date.

Idem

(2) Subsection (1) does not prevent the refund of an additional voluntary contribution and interest thereon to a member or former member or a payment under subsection 40 (4) (entitlement to excess amount).

Refund
related
to past
employment

(3) Notwithstanding subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension under section 37 (deferred pension for past service) is entitled to payment within the prescribed period of time of an amount equal to not less than the amount of the member's contributions, and the interest on the contributions, made under the pension plan in respect of the member's employment before the 1st day of January, 1987.

Refund
related
to post-
reform
employment

(4) Notwithstanding subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension under section 38 (deferred pension) is entitled to payment within the prescribed period of time of an amount equal to not less than the amount of the member's contributions, and the interest on the contributions, made under the pension plan in respect of the member's employment after the 31st day of December, 1986.

Application
of subs. (1)

(5) Subsection (1) does not apply,

(a) to prevent the commutation of a pension benefit under subsection 51 (1) (commuted value);

(b) to prevent a payment under subsection 51 (2); or

(c) to such other circumstances as are prescribed.

(6) Subsections (3) and (4) do not apply in respect of a member of a multi-employer pension plan unless the member terminates his or her membership in the multi-employer pension plan.

Application
of
subss. (3, 4)

(7) Notwithstanding subsection (1), on application by the administrator, contributions may be refunded to a member or a former member with the consent of the Commission.

Refund with
consent

(8) On application by the administrator of a pension plan, the Commission may consent to a refund under subsection (7) if the pension plan provides or has been amended to provide for the refund and the employer has assumed responsibility for funding all pension benefits associated with the contributions.

Consent of
Commission

65. A pension plan may provide for shorter qualification periods than those set out in subsections 37 (1) (deferred pension for past service) and 38 (1) (deferred pension).

Shorter
qualification
periods

66.—(1) Every transaction that purports to assign, charge, anticipate or give as security money payable under a pension plan is void.

Void
transactions

(2) Every transaction that purports to assign, charge, anticipate or give as security money transferred from a pension fund in accordance with section 43 (transfer), 44 (purchase of pension), clause 49 (1) (b) (pre-retirement death benefit) or subsection 74 (2) (transfer rights on wind up) is void.

Idem

(3) Subsections (1) and (2) do not apply to prevent the assignment of an interest in moneys payable under a pension plan or moneys payable as a result of a purchase or transfer under section 43, 44, clause 49 (1) (b) or subsection 74 (2) (transfer rights on wind up) by an order under the *Family Law Act, 1986* or by a domestic contract as defined in Part IV of that Act.

Exemption
for order or
separation
agreement

1986, c. 4

67.—(1) Money payable under a pension plan is exempt from execution, seizure or attachment.

Exemption
from
execution,
seizure or
attachment

Idem

(2) Money transferred from a pension fund to a prescribed retirement savings arrangement or for the purchase of a life annuity under section 43, 44, 49 or subsection 74 (2) is exempt from execution, seizure or attachment.

Idem

(3) Money payable from a prescribed retirement savings arrangement or from a life annuity purchased in accordance with section 43, 44, 49 or subsection 74 (2) is exempt from execution, seizure or attachment.

Order for
support or
maintenance

(4) Notwithstanding subsection (1), payments under a pension or that result from a purchase or transfer under section 43, 44, clause 49 (1) (b) or subsection 74 (2) are subject to execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half the money payable.

Application
of subs. (4)

(5) Subsection (4) applies to orders for support or maintenance enforceable in Ontario whether made before or after the coming into force of this Act.

Commutation
or surrender

68.—(1) A pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement that results from a purchase or transfer under section 43, 44, 49 or subsection 74 (2) to which a person is entitled is not capable of being commuted or surrendered during the person's life.

Void
transaction

(2) A transaction that purports to commute or surrender such a pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement is void.

Application
of
subss. (1, 2)

(3) Subsections (1) and (2) do not apply to a variation of a pension or deferred pension under section 50 (variation of payment to disabled person) or to a commutation of a benefit under section 51 (commuted value).

WINDING UP

Winding up

69.—(1) The employer or, in the case of a multi-employer pension plan, the administrator may wind up the pension plan in whole or in part.

Notice

(2) The administrator shall give written notice of proposal to wind up the pension plan to,

- (a) the Superintendent;
- (b) each member of the pension plan;
- (c) each former member of the pension plan;

- (d) each trade union that represents members of the pension plan;
- (e) the advisory committee of the pension plan; and
- (f) any other person entitled to a payment from the pension fund.

(3) The notice of proposal to wind up shall contain the information prescribed by the regulations.

Information

(4) The effective date of the wind up shall not be earlier than the date member contributions, if any, cease to be deducted, in the case of contributory pension benefits, or, in any other case, on the date notice is given to members.

Effective date

(5) The Superintendent by order may change the effective date of the wind up if the Superintendent is of the opinion that there are reasonable grounds for the change.

Order by Superintendent

70.—(1) The Superintendent by order may require the wind up of a pension plan in whole or in part if,

Winding up order by Superintendent

- (a) there is a cessation or suspension of employer contributions to the pension fund;
- (b) the employer fails to make contributions to the pension fund as required by this Act or the regulations;
- (c) the employer is bankrupt within the meaning of the *Bankruptcy Act* (Canada);
- (d) a significant number of members of the pension plan cease to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer;
- (e) all or a significant portion of the business carried on by the employer at a specific location is discontinued;
- (f) all or part of the employer's business or all or part of the assets of the employer's business are sold, assigned or otherwise disposed of and the person who acquires the business or assets does not provide a pension plan for the members of the employer's pension plan who become employees of the person;

R.S.C. 1970,
c. B-3

- (g) the liability of the Guarantee Fund is likely to be substantially increased unless the pension plan is wound up in whole or in part;
- (h) in the case of a multi-employer pension plan,
 - (i) there is a significant reduction in the number of members, or
 - (ii) there is a cessation of contributions under the pension plan or a significant reduction in such contributions; or
- (i) any other prescribed event or prescribed circumstance occurs.

Date and
notice

(2) In an order under subsection (1), the Superintendent shall specify the effective date of the wind up, the persons or class or classes of persons to whom the administrator shall give notice of the order and the information that shall be given in the notice.

Wind up
report

71.—(1) The administrator of a pension plan that is to be wound up in whole or in part shall file a wind up report that sets out,

- (a) the assets and liabilities of the pension plan;
- (b) the benefits to be provided under the pension plan to members, former members and other persons;
- (c) the methods of allocating and distributing the assets of the pension plan and determining the priorities for payment of benefits; and
- (d) such other information as is prescribed.

Payments
out of
pension
fund after
notice of
proposal to
wind up

(2) No payment shall be made out of the pension fund in respect of which notice of proposal to wind up has been given until the Superintendent has approved the wind up report.

Application
of subs. (2)

(3) Subsection (2) does not apply to prevent continuation of payment of a pension or any other benefit the payment of which commenced before the giving of the notice of proposal to wind up the pension plan or to prevent any other payment that is prescribed or that is approved by the Superintendent.

(4) An administrator shall not make payment out of the pension fund except in accordance with the wind up report approved by the Superintendent. Approval

(5) The Superintendent may refuse to approve a wind up report that does not meet the requirements of this Act and the regulations or that does not protect the interests of the members and former members of the pension plan. Refusal to approve

(6) On the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits they would have on a full wind up of the pension plan on the effective date of the partial wind up. Rights and benefits on partial wind up

72.—(1) If a pension plan that is to be wound up in whole or in part does not have an administrator or the administrator fails to act, the Superintendent may act as or may appoint an administrator. Appointment of administrator to wind up

(2) The reasonable administration costs of the Superintendent or of the administrator appointed by the Superintendent may be paid out of the pension fund. Costs of administration on winding up

73.—(1) On the wind up of a pension plan in whole or in part, the administrator shall give to each person entitled to a pension, deferred pension or other benefit or to a refund in respect of the pension plan a statement setting out the person's entitlement under the pension plan, the options available to the person and any other prescribed information. Notice of entitlements

(2) If a person to whom notice is given under subsection (1) is required to make an election, the person shall make the election within the prescribed period of time or shall be deemed to have elected to receive immediate payment of a pension benefit, if eligible therefor, or, if not eligible to receive immediate payment of a pension benefit, to receive a pension commencing at the earliest date mentioned in clause 75 (1) (b), and the administrator of the pension plan shall make payment in accordance with the election or deemed election. Election

74.—(1) For the purpose of determining the amounts of pension benefits on the winding up of a pension plan, in whole or in part, Determination of entitlements

(a) the employment of each member of the pension plan affected by the winding up shall be deemed to

have been terminated on the effective date of the wind up;

- (b) each member's pension benefits as of the effective date of the wind up shall be determined as if the member had satisfied all eligibility conditions for a deferred pension; and
- (c) provision shall be made for the rights under section 75.

Transfer
rights on
wind up

(2) A person entitled to a pension benefit on the wind up of a pension plan, other than a person who is receiving a pension, is entitled to the rights under subsection 43 (1) (transfer) of a member who terminates employment and, for the purpose, subsection 43 (3) does not apply.

Combination
of age and
years of
employment

75.—(1) A member in Ontario of a pension plan whose combination of age plus years of employment or membership in the pension plan equals at least fifty-five, at the effective date of the wind up of the pension plan in whole or in part, has the right to receive,

- (a) a pension in accordance with the terms of the pension plan, if, under the pension plan, the member is eligible for immediate payment of the pension benefit;
- (b) a pension in accordance with the terms of the pension plan, beginning at the earlier of,
 - (i) the normal retirement date under the pension plan, or
 - (ii) the date on which the member would be entitled to an unreduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date; or
- (c) a reduced pension beginning on the date on which the member would be entitled to the reduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date.

Part year

(2) In determining the combination of age plus employment or membership, one-twelfth credit shall be given for each month of age and for each month of employment or membership.

(3) Bridging benefits offered under the pension plan shall be included in calculating the pension benefit under subsection (1) of a person who has at least ten years of continuous employment with the employer or has been a member of the pension plan for at least ten years.

Member for
ten years

(4) For the purposes of subsection (3), if the bridging benefit offered under the pension plan is not related to periods of employment or membership in the pension plan, the bridging benefit shall be prorated by the ratio that the member's actual period of employment bears to the period of employment that the member would have to the earliest date on which the member would be entitled to an unreduced pension under the pension plan if the pension plan were not wound up.

Prorated
bridging
benefit

(5) Membership in a pension plan that is wound up in whole or in part includes the period of notice of termination of employment required under Part XII of the *Employment Standards Act*.

Notice of
termination
of
employment
R.S.O. 1980,
c. 137

(6) Subsection (5) does not apply for the purpose of calculating the amount of a pension benefit of a member who is required to make contributions to the pension fund unless the member makes the contributions in respect of the period of notice of termination of employment.

Application
of subs. (5)

76.—(1) Where a pension plan is wound up in whole or in part, the employer shall pay into the pension fund,

Liability of
employer on
wind up

- (a) an amount equal to the total of all payments that, under this Act, the regulations and the pension plan, are due or that have accrued and that have not been paid into the pension fund; and
- (b) an amount equal to the amount by which,
 - (i) the value of the pension benefits under the pension plan that would be guaranteed by the Guarantee Fund under this Act and the regulations if the Commission declares that the Guarantee Fund applies to the pension plan,
 - (ii) the value of the pension benefits vested under the pension plan, and
 - (iii) the value of benefits resulting from the application of subsection 40 (3) (50 per cent rule) and section 75,

exceed the value of the assets of the pension fund allocated as prescribed for payment of pension benefits accrued with respect to employment in Ontario.

Payment

(2) The employer shall pay the moneys due under subsection (1) in the prescribed manner and at the prescribed times.

Pension fund continues subject to Act and regulations

77. The pension fund of a pension plan that is wound up continues to be subject to this Act and the regulations until all the assets of the pension fund have been disbursed.

Insufficient pension fund

78. Subject to the application of the Guarantee Fund, where the moneys in a pension fund are not sufficient to pay all the pension benefits and other benefits on the wind up of the pension plan in whole or in part, the pension benefits and other benefits shall be reduced in the prescribed manner.

SURPLUS

Payment out of pension fund to employer

79.—(1) No money may be paid out of a pension fund to the employer without the prior consent of the Commission.

Application for payment

(2) An employer who applies to the Commission for consent to payment of moneys to the employer out of a pension fund shall transmit notice of the application, containing the prescribed information, to,

- (a) each member and each former member of the pension plan to which the pension fund relates;
- (b) each trade union that represents members of the pension plan;
- (c) any other individual who is receiving payments out of the pension fund; and
- (d) the advisory committee established in respect of the pension fund.

Representations

(3) A person to whom notice has been transmitted under subsection (2) may make written representations to the Commission with respect to the application within thirty days after receiving the notice.

Continuing pension plan

80.—(1) The Commission shall not consent to payment of money to the employer out of a continuing pension plan unless,

- (a) the Commission is satisfied, based on reports provided with the application, that the pension plan has a surplus;
- (b) the pension plan provides for the withdrawal of surplus by the employer while the pension plan continues in existence, or the applicant satisfies the Commission that the applicant is otherwise entitled to withdraw the surplus;
- (c) where all pension benefits under the pension plan are guaranteed by an insurance company, an amount equal to at least two years of the employer's current service costs is retained in the pension fund as surplus;
- (d) where the members are not required to make contributions under the pension plan, the greater of,
 - (i) an amount equal to two years of the employer's current service costs, or
 - (ii) an amount equal to 25 per cent of the liabilities of the pension plan calculated as prescribed,

is retained in the pension fund as surplus;

- (e) where members are required to make contributions under the pension plan, all surplus attributable to contributions paid by members and the greater of,
 - (i) an amount equal to two years of the employer's current service costs, or
 - (ii) an amount equal to 25 per cent of the liabilities of the pension plan calculated as prescribed,

are retained in the pension fund as surplus; and

- (f) the applicant and the pension plan comply with all other requirements prescribed under other sections of this Act in respect of the payment of surplus moneys out of a pension fund.

(2) Effective the 1st day of January, 1989, a pension plan that does not provide for the withdrawal of surplus moneys while the pension plan continues in existence shall be con-

Where no provision in pension plan

strued to prohibit the withdrawal of surplus moneys accrued after the 31st day of December, 1986.

Wind up

(3) The Commission shall not consent to an application in respect of a pension plan that is being wound up in whole or in part unless,

- (a) the Commission is satisfied, based on reports provided with the application, that the pension plan has a surplus;
- (b) the pension plan provides for payment of surplus to the employer on the wind up of the pension plan;
- (c) all liabilities of the pension plan, calculated for the purpose of the termination of the pension plan, have been paid; and
- (d) the applicant and the pension plan comply with all other requirements prescribed under other sections of this Act in respect of the payment of surplus moneys out of a pension fund.

Idem

(4) Effective the 1st day of January, 1989, a pension plan that does not provide for payment of surplus moneys on the wind up of the pension plan shall be construed to require that surplus moneys accrued after the 31st day of December, 1986 shall be distributed proportionately on the wind up of the pension plan among members, former members and any other persons entitled to payments under the pension plan on the date of the wind up.

Decision

(5) The Commission shall transmit its decision, together with written reasons therefor, to the applicant and to each person who made written representations to the Commission in accordance with subsection 79 (3).

Conditions
and
limitations

(6) The Commission may attach such conditions and limitations to its consent under this section as the Commission considers necessary in the circumstances.

Application
of
R.S.O. 1980,
c. 484

(7) The *Statutory Powers Procedure Act* does not apply in respect of a decision made by the Commission under this section.

Interim
prohibition
to giving
consent

(8) The Commission shall not consent to payment of money from surplus to the employer out of a continuing pension plan until such date as may be prescribed.

SALES, TRANSFERS AND NEW PLANS

81.—(1) Where an employer who contributes to a pension plan sells, assigns or otherwise disposes of all or part of the employer's business or all or part of the assets of the employer's business, a member of the pension plan who, in conjunction with the sale, assignment or disposition becomes an employee of the successor employer and becomes a member of a pension plan provided by the successor employer,

Continuation
of benefits
under succes-
sor employer

- (a) continues to be entitled to the benefits provided under the employer's pension plan in respect of employment in Ontario or a designated province to the effective date of the sale, assignment or disposition without further accrual;
- (b) is entitled to credit in the pension plan of the successor employer for the period of membership in the employer's pension plan, for the purpose of determining eligibility for membership in or entitlement to benefits under the pension plan of the successor employer; and
- (c) is entitled to credit in the employer's pension plan for the period of employment with the successor employer for the purpose of determining entitlement to benefits under the employer's pension plan.

(2) Clause (1) (a) does not apply if the successor employer assumes responsibility for the accrued pension benefits of the employer's pension plan.

Exception

(3) Where a transaction described in subsection (1) takes place, the employment of the employee shall be deemed, for the purposes of this Act, not to be terminated by reason of the transaction.

Employment
deemed not
terminated

(4) Where a transaction described in subsection (1) occurs and the successor employer assumes responsibility in whole or in part for the pension benefits provided under the employer's pension plan, no transfer of assets shall be made from the employer's pension fund to the pension fund of the plan provided by the successor employer without the prior consent of the Superintendent or contrary to the prescribed terms and conditions.

Transfer
on sale

(5) The Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the

Consent by
Superin-
tendent

employer's pension plan or that does not meet the prescribed requirements and qualifications.

Order for
return

(6) The Superintendent by order may require the transferee to return to the pension fund, with interest, assets transferred without the prior consent required by subsection (4).

Wind up

(7) Where a transaction described in subsection (1) takes place and the successor employer does not provide a pension plan for members of the employer's pension plan who become employees of the successor employer, the administrator of the employer's pension plan shall wind up the pension plan in respect of those members.

Enforcement

(8) Subject to section 90 (hearing and appeal), an order for return of assets under subsection (6), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.

Definition

(9) In this section, "successor employer" means the person who acquires the business or the assets of the employer.

Adoption
of new
pension plan

82.—(1) A pension plan shall not be wound up for the reason only that a new pension plan is established and the employer has ceased to make contributions to the original pension plan.

Continuation
of benefits

(2) The benefits under the original pension plan in respect of employment before the establishment of the new pension plan shall be deemed to be benefits under the new pension plan.

Application
of subs. (2)

(3) Subsection (2) applies whether or not the assets and liabilities of the original pension plan are consolidated with those of the new pension plan.

Transfer
of assets

(4) No transfer of assets shall be made from the pension fund of the original pension plan to the pension fund of the new pension plan without the prior consent of the Superintendent or contrary to the prescribed terms and conditions.

Consent by
Superin-
tendent

(5) The Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the original pension plan or that does not meet the prescribed requirements and qualifications.

Order

(6) The Superintendent by order may require the transferee to return to the pension fund assets, with interest calculated in the prescribed manner, transferred without the prior consent

of the Superintendent or transferred contrary to a prescribed term or condition.

(7) Subject to section 90 (hearing and appeal), an order for return of assets under subsection (6), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.

Enforcement

PENSION BENEFITS GUARANTEE FUND

83.—(1) The Pension Benefits Guarantee Fund is continued.

Guarantee
Fund
continued

(2) The Commission is responsible for the administration of the Guarantee Fund including the investment of the assets of the Guarantee Fund.

Adminis-
tration

(3) The Commission may charge to the Guarantee Fund the reasonable expenses incurred by the Commission in the administration of the Guarantee Fund.

Expenses

(4) If at any time the amount standing to the credit of the Guarantee Fund is insufficient for the purpose of paying claims, the Lieutenant Governor in Council may authorize the Treasurer of Ontario to make loans out of the Consolidated Revenue Fund to the Guarantee Fund on such terms and conditions as the Lieutenant Governor in Council directs.

Loans to
Guarantee
Fund

84.—(1) The Commission, subject to section 91 (notice and representations), shall declare, in the circumstances mentioned in subsection (2), that the Guarantee Fund applies to a pension plan.

Guarantee
Fund
declaration

(2) The Commission shall make the declaration if,

Conditions
precedent

- (a) the pension plan is registered under this Act or is registered in a designated province to provide for the reciprocal application of this Act;
- (b) the pension plan provides defined benefits that are not exempt from the application of the Guarantee Fund by this Act or the regulations;
- (c) the pension plan is wound up in whole or in part; and
- (d) the Commission is of the opinion, upon reasonable and probable grounds, that the funding requirements of this Act and the regulations cannot be satisfied.

Guaranteed
benefits

85.—(1) Where the Guarantee Fund is declared by the Commission to apply to a pension plan, the following are guaranteed by the Guarantee Fund, subject to the limitations and qualifications as are set out in this Act or are prescribed:

1. Any pension in respect of employment in Ontario.
2. Any deferred pension in respect of employment in Ontario to which a former member is entitled, if the former member's employment or membership was terminated before the 1st day of January, 1987 and the former member was at least forty-five years of age and had at least ten years of continuous employment with the employer, or was a member of the pension plan for a continuous period of at least ten years, at the date of termination of employment.
3. A percentage of any defined pension benefits in respect of employment in Ontario to which a member or former member is entitled under section 37 or 38 (deferred pension), or both, if the member's or former member's employment or membership was terminated after the 31st day of December, 1986, equal to 20 per cent if the combination of the member's or former member's age plus years of employment or membership in the pension plan equals fifty, plus an additional $\frac{2}{3}$ of 1 per cent for each additional one-twelfth credit of age and employment or membership to a maximum of 100 per cent.
4. All additional voluntary contributions, and the interest thereon, made by members or former members while employed in Ontario.
5. The minimum value of all required contributions made to the pension plan by a member or former member in respect of employment in Ontario plus interest.

Bridging
benefits

(2) For the purpose of this section, where a member or former member has at least ten years of continuous employment with the employer, a deferred pension or a pension benefit includes bridging benefits.

Part year

(3) In determining the combination of age and membership or employment for subsection (1), one-twelfth credit shall be given for each full month of age and for each full month of employment or membership.

86. The following are not guaranteed by the Guarantee Fund: Payments not guaranteed

1. The payment of a pension or pension benefit under a pension plan that has been established or maintained for less than three years at the date of wind up.
2. Any increase to a pension or pension benefit or the value of a pension or pension benefit that became effective within three years before the date of wind up.
3. The amount of any pension or pension benefit, including any bridging supplement, in excess of \$1,000 per month or such greater amount as is prescribed by the regulations.
4. Pension benefits provided under a multi-employer pension plan.
5. Pension benefits provided under a pension plan that provides defined benefits, if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement.
6. Pension benefits provided by prescribed pension plans or prescribed classes of pension plans.

87.—(1) Where money is paid out of the Guarantee Fund as a result of the wind up, in whole or in part, of a pension plan, the Commission has a lien and charge on the assets of the employer or employers who provided the pension plan. Lien for payment out of Guarantee Fund

(2) The lien and charge is in an amount equal to the amount of the payment out of the Guarantee Fund plus interest thereon calculated at the rate and in the manner prescribed by the regulations. Amount of lien

(3) The lien and charge does not affect assets that are real property until a notice of the lien and charge that includes a description of the real property is registered in the proper land registry office, and the Commission may so register notice of the lien and charge. Real property

(4) The Commission is subrogated to the rights of the administrator of a pension plan in respect of which the Commission authorizes payment from the Guarantee Fund in satis- Subrogation

faction of a pension, deferred pension, pension benefit or contribution guaranteed under section 85 (guaranteed benefits).

ORDERS

Order by
Superin-
tendent

88.—(1) The Superintendent, in the circumstances mentioned in subsection (2) and subject to section 90 (hearing and appeal), by a written order may require an administrator or any other person to take or to refrain from taking any action in respect of a pension plan or a pension fund.

Condition
precedent
to order

(2) The Superintendent may make an order under this section if the Superintendent is of the opinion, upon reasonable and probable grounds,

- (a) that the pension plan or pension fund is not being administered in accordance with this Act, the regulations or the pension plan;
- (b) that the pension plan does not comply with this Act and the regulations; or
- (c) that the administrator of the pension plan, the employer or the other person is contravening a requirement of this Act or the regulations.

Time

(3) In an order under this section, the Superintendent may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

Reasons
for order

(4) An order under this section is not effective unless the reasons for the order are set out in the order.

Order by
Commission

89.—(1) The Commission, in the circumstances mentioned in subsection (2) and subject to section 91 (notice and representations), by order may require an administrator to take the action specified in subsection (3).

Grounds
for order

(2) The Commission may make an order under this section where the Commission is of the opinion,

- (a) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan are inappropriate for a pension plan;
- (b) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan do not

accord with generally accepted actuarial principles;
or

- (c) that a report submitted in respect of a pension plan does not meet the requirements and qualifications of this Act, the regulations or the pension plan.

(3) An order under this section may include, but is not limited to, requiring the preparation of a new report and specifying the assumptions or methods or both that shall be used in the preparation of the new report.

Contents
of order

HEARING AND APPEAL

90.—(1) Where the Superintendent proposes to refuse to register a pension plan or an amendment to a pension plan or to revoke a registration, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant or administrator of the plan.

Notice of
proposal
to refuse
or revoke

(2) Where the Superintendent proposes to make an order under,

Notice of
proposal to
make order

- (a) subsection 43 (9) (repayment of money transferred out of pension fund);
- (b) subsection 44 (5) (repayment of money paid to purchase pension, deferred pension or ancillary benefit);
- (c) subsection 81 (6) (transfer of assets to pension fund of successor employer);
- (d) subsection 82 (6) (transfer of assets to new pension fund); or
- (e) section 88 (administration of pension plan or contravention of Act or regulation),

the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and on any other person to whom the Superintendent proposes to direct the order.

(3) Where the Superintendent proposes to make or to refuse to make an order requiring an administrator to accept an employee as a member of a class of employees for whom a pension plan is established or maintained, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator, and the Superintendent

Notice of
proposal re
membership

shall serve or require the administrator to serve a copy of the notice and the written reasons on the employee.

Notice of
proposal to
attach terms
and
conditions
to approval
or consent

(4) Where the Superintendent proposes to refuse to give an approval or consent or proposes to attach terms and conditions to an approval or consent under this Act or the regulations, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant for the approval or consent.

Notice of
proposed
wind up
order

(5) Where the Superintendent proposes to make an order requiring the wind up of a pension plan or declaring a pension plan wound up, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and the employer, and the Superintendent may require the administrator to transmit a copy of the notice and the written reasons on such other persons or classes of persons or both as the Superintendent specifies in the notice to the administrator.

Notice
requiring
hearing

(6) A notice under subsection (1), (2), (3), (4) or (5) shall state that the person on whom the notice is served is entitled to a hearing by the Commission if the person delivers to the Commission, within thirty days after service of the notice under that subsection, notice in writing requiring a hearing, and the person may so require such a hearing.

Power of
Superin-
tendent

(7) Where the person on whom the notice is served does not require a hearing in accordance with subsection (6), the Superintendent may carry out the proposal stated in the notice.

Hearing

(8) Where the person requires a hearing by the Commission in accordance with subsection (6), the Commission shall appoint a time for and hold the hearing.

Power of
Commission

(9) At or after the hearing, the Commission by order may direct the Superintendent to carry out or to refrain from carrying out the proposal and to take such action as the Commission considers the Superintendent ought to take in accordance with this Act and the regulations, and for such purposes, the Commission may substitute its opinion for that of the Superintendent.

Conditions

(10) The Commission may attach such terms and conditions to its order or to the registration as the Commission considers proper to give effect to the purposes of this Act.

Parties

(11) The Superintendent, the person who requires a hearing and such other persons as the Commission specifies are

parties to the proceeding before the Commission under this section.

(12) A party to a hearing shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the registration of the pension plan.

Opportunity to show compliance

(13) A party to a hearing under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination of documentary evidence

(14) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to the person within a reasonable time after the matter in issue has been finally determined.

Release of documentary evidence

91.—(1) Where the Commission proposes to consider,

Notice of proposal by Commission

- (a) making a declaration that the Guarantee Fund applies to a pension plan;
- (b) making an order requiring the administrator of a pension plan to take specific action in relation to a report in respect of the pension plan; or
- (c) refusing to consent to a refund of contributions under section 64 (refunds),

the Commission shall serve notice of the proposal together with written reasons therefor on the administrator of the pension plan.

(2) The administrator shall transmit copies of the Commission's notice to such other persons or classes of persons or both as the Commission specifies in the notice to the administrator.

Additional notices

(3) A notice by the Commission under subsection (1) shall state that the administrator, the persons and the representatives and members of classes of persons specified in the notice are entitled to make written representations to the Commission within thirty days after service of the notice under that subsection.

Representations

(4) An individual who is entitled to make representations to the Commission under subsection (3) shall be afforded an opportunity, during the period of time when representations

Examination of documentary evidence

may be made, to examine any written or documentary evidence that will be produced or any report the contents of which will be considered by the Commission when the Commission considers its proposal.

Notice of
decision

(5) The Commission shall transmit a copy of its decision, together with written reasons therefor, to the administrator, the employer and every other person who made representations to the Commission in accordance with subsection (3).

Application
of
R.S.O. 1980,
c. 484

(6) The *Statutory Powers Procedure Act* does not apply in respect of a declaration, refusal or order mentioned in subsection (1) by the Commission.

Appeal
to court

92.—(1) A party to a proceeding before the Commission under section 80, 90 or 91 may appeal to the Divisional Court from the decision or order of the Commission.

Certified
copy of
record

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the prescribed fee, the Commission shall furnish the party with a certified copy of the record of the proceeding, including the documents received in evidence and the decision or order appealed from.

Quorum
and votes

93.—(1) Three members of the Commission constitute a quorum for the purposes of a proceeding before the Commission under section 90, and decisions in such proceedings require the vote of a majority of the members of the Commission present at the hearing in the proceeding.

Panels

(2) The Commission may sit in two or more panels simultaneously for the purposes of such proceedings.

Assignment

(3) The head of the Commission shall assign the members of the Commission to its panels and may change an assignment at any time.

Expiry of
member's
term of
office

(4) Where a proceeding is commenced before the Commission and the term of office on the Commission of a person sitting for the hearing expires or is terminated, other than for cause, before the proceeding has been disposed of but after evidence has been heard, the person shall be deemed to remain a member of the Commission for the purpose of completing the proceeding in the same manner as if his or her term of office had not expired or been terminated.

PENSION COMMISSION

Commission
continued

94.—(1) The Pension Commission of Ontario is continued.

(2) The Commission shall be composed of not fewer than five and not more than nine members appointed by the Lieutenant Governor in Council. Composition

(3) The Lieutenant Governor in Council shall appoint the head and the deputy head of the Commission from among the members of the Commission. Head and deputy head

(4) The members of the Commission shall be appointed for terms of not more than three years and may be reappointed for further terms of not more than three years. Term of office

(5) If the head of the Commission is absent or if there is a vacancy in the office of head of the Commission, the deputy head shall act as and have all the powers of the head of the Commission. Authority of deputy head

(6) If both the head of the Commission and the deputy head are absent or if there are vacancies in the offices of head of the Commission and deputy head, the member of the Commission designated by the members of the Commission shall act as and have the powers of the head of the Commission. Acting head

(7) The Lieutenant Governor in Council may fill any vacancy in the membership of the Commission or in the offices of head or deputy head of the Commission. Vacancies

(8) A majority of the members of the Commission, including the head or deputy head of the Commission, constitutes a quorum. Quorum

(9) Such employees as are necessary to carry out the business of the Commission shall be appointed under the *Public Service Act*. Employees
R.S.O. 1980,
c. 418

(10) The members of the Commission shall be paid such remuneration and expenses as are fixed by the Lieutenant Governor in Council. Salary and expenses

95.—(1) The office of Superintendent of Pensions is continued. Superintendent

(2) The Superintendent shall be appointed by the Commission. Appointment

(3) The Superintendent is the chief administrative officer of the Commission. Chief administrative officer

Powers and
duties

(4) The Superintendent shall exercise the powers and perform the duties that are vested in or imposed upon the Superintendent by this Act, the regulations and the Commission.

Delegation
of powers
and duties

(5) The Superintendent may delegate in writing any power or duty of the Superintendent under this Act to any employee of the Commission, subject to the approval of the Commission and subject to any limitation or condition set out in the delegation.

Reciprocal
agreements

96.—(1) The Commission may, subject to the approval of the Lieutenant Governor in Council,

- (a) enter into agreements with the authorized representatives of another province or the Government of Canada to provide for the reciprocal application and enforcement of pension benefits legislation, the reciprocal registration, audit and inspection of pension plans and for the establishment of a Canadian association of pension supervisory authorities;
- (b) authorize a Canadian association of pension supervisory authorities to carry out such duties on behalf of the Commission as the Commission may require; and
- (c) delegate to a pension supervisory authority or the government of a designated province such functions and powers under this Act as the Commission may determine and the Commission may accept similar delegations of functions and powers from a pension supervisory authority or the government of a designated province.

Applicable
law

(2) Where a pension plan required to be registered in Ontario is registered in a designated jurisdiction, the Commission by order may limit the application of this Act and the regulations to the pension plan and authorize the application of the law of the designated jurisdiction in respect of the pension plan.

Duty of
Commission

97. It is the duty of the Commission,

- (a) to administer this Act and the regulations;
- (b) to promote the establishment, extension and improvement of pension plans throughout Ontario;
- (c) to advise the Minister in respect of the business of the Commission; and

- (d) to make recommendations to the Minister in respect of pension plans.

98.—(1) It is a function of the Commission to conduct surveys and research programs and to compile statistical information related to pensions and pension plans.

Research

(2) The Commission may request an employer or an administrator or a member of a pension plan to provide information necessary to compile the statistical information and such persons shall comply with the request within a reasonable period of time.

Provision of information

(3) The Commission shall use the information only for the purpose of compiling the statistical information.

Confidentiality

99.—(1) The Superintendent may require an employer, an administrator or any other person to supply to the Commission or the Superintendent such information in such form as is acceptable to the Superintendent and within such time limits as specified for the purpose of ascertaining whether or not this Act and the regulations are being complied with.

Information

(2) A person to whom a request is made under subsection (1) shall comply with the request within the time specified by the Superintendent or other person designated by the Superintendent.

Idem

100. Every person entrusted by the Commission with the custody or control of money in the course of employment shall give security in the manner and form provided by the *Public Officers Act*.

Security

R.S.O. 1980,
c. 415

101. No member of the Commission or of the staff of the Commission is personally liable for anything done in good faith in the execution or intended execution of a duty or authority under this Act or the regulations or for alleged neglect or default in the execution in good faith of such a duty or authority.

Liability of
members and
employees of
Commission

102. The Provincial Auditor shall examine annually the accounts and financial transactions of the Commission.

Audit

103.—(1) The Commission shall report annually to the Minister on the business of the Commission.

Annual
report

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Idem

GENERAL

Pension
agency

104. The Lieutenant Governor in Council may establish or designate an agency for the purposes, among others, of receiving, holding and disbursing pension benefits under this Act.

Transitional

105. Every pension plan that was registered and that continued to be qualified for registration under the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, immediately before the coming into force of this Act, shall be deemed to be registered upon the coming into force of this Act.

Extension
of time

106. The Commission or the Superintendent may extend any prescribed time limit before or after the expiration of the time if satisfied that there are reasonable grounds for applying for the extension, and may give such directions as the Commission or the Superintendent considers proper consequent upon the extension.

Interpre-
tation,
persons

107.—(1) The persons referred to in subsections (3) to (5) and (8) to (10) are the following:

1. The Superintendent.
2. Any person designated by the Superintendent or the Commission.

Interpre-
tation,
purposes

(2) The purposes mentioned in subsections (3) to (5) and (10) are the following:

1. The administration of this Act and the regulations.
2. The administration of the Guarantee Fund.
3. The enforcement of any section of this Act or the regulations.
4. The exercise of a power or the carrying out of a duty under this Act or the regulations.
5. The carrying out of an order made under this Act.

Entry

(3) For a purpose mentioned in subsection (2), a person mentioned in subsection (1) may enter and have access to, through and over any business premises, where the person has reasonable grounds to believe books, papers, documents or things are kept that relate to a pension plan or pension fund.

(4) A person mentioned in subsection (1) may make examinations, investigations and inquiries and may require the production of any book, paper, document or thing related to a pension plan or pension fund. Examinations

(5) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies or extracts related to an examination, investigation or inquiry for a purpose mentioned in subsection (2). Samples or extracts

(6) The authority under subsections (3) to (5) shall be exercised only at reasonable times. Reasonable times

(7) Subsection (3) is not authority to enter a private residence without the consent of the occupier. Private residence

(8) A person mentioned in subsection (1) who is making an examination, investigation or inquiry may, upon giving a receipt therefor, remove any books, papers, documents or things relating to the subject-matter of the examination, investigation or inquiry for the purpose of making copies of the books, papers, documents or things, but the copying shall be carried out with reasonable dispatch and the books, papers, documents or things shall be returned forthwith after the copying is completed. Removal of books, etc., for copying

(9) A copy of any written or recorded material found in an examination, investigation or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution for all purposes for which the original would have been admissible. Copies

(10) If an occupier of premises, Application for warrant

(a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);

(b) instructs a person mentioned in subsection (1) to leave the premises;

(c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);

(d) refuses to comply with a request for the production of any thing the production of which is requested for the purpose of an examination, investigation or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for an inspection order under section 109.

Identification (11) A person exercising a power under this section shall provide identification at the time of entry.

Obstruction **108.**—(1) No person shall hinder or obstruct a person mentioned in subsection 107 (1) who is lawfully carrying out a duty under this Act.

Private residence (2) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1).

Order by justice of the peace **109.**—(1) Where a justice of the peace is satisfied on evidence upon oath,

(a) that there is reasonable and probable ground for believing that it is necessary,

(i) to enter and have access to, through and over any premises,

(ii) to make examinations, investigations or inquiries, and

(iii) to make, take and remove photographs, samples, copies or extracts related to an examination, investigation or inquiry,

or to do any of such things, for a purpose mentioned in subsection 107 (2); and

(b) that a person mentioned in subsection 107 (1),

(i) has been denied entry to the premises,

(ii) has reasonable grounds to believe that entry to the premises will be denied,

(iii) has been instructed to leave the premises,

(iv) has been obstructed, or

(v) has been refused production of any thing related to an examination, investigation or inquiry,

by the occupier of the premises,

the justice of the peace may issue an inspection order authorizing a person mentioned in subsection 107 (1) to act as mentioned in clause (a) in respect of the premises specified in the inspection order, by force if necessary, together with such police officer or officers as they call upon to assist them.

(2) An inspection order issued under this section shall be executed between 6 a.m. and 9 p.m. standard time unless the justice of the peace otherwise authorizes in the order.

Execution
of order

(3) An inspection order issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the inspection order is issued.

Expiry of
order

(4) A justice of the peace may receive and consider an application for an inspection order under this section without notice to and in the absence of the owner or the occupier of the premises.

Ex parte
application

110.—(1) Every person who contravenes this Act or the regulations is guilty of an offence.

Offence

(2) Every person who contravenes an order made under this Act is guilty of an offence.

Idem

111.—(1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$25,000.

Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed is \$100,000 and not as provided in subsection (1).

Corporation

(3) Where a corporation is guilty of an offence under this Act, an officer, official, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and is liable on conviction to a fine of not more than \$25,000.

Officers,
etc.

(4) Where a person is convicted of an offence related to the failure to submit or make payment to a pension fund or to an insurance company, the court that convicts the person may, in addition to any fine imposed, assess the amount not submitted or not paid and order the person to pay the amount to the pension fund or to the insurance company.

Order for
payment

(5) An order for payment under subsection (4), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.

Enforcement

Time limit

(6) No proceeding under this Act shall be commenced after five years after the date when the subject-matter of the proceeding occurred or is alleged to have occurred.

Power to restrain

112. Where a provision of this Act or the regulations or an order or approval of the Commission or the Superintendent under this Act is contravened, in addition to any other remedy and to any penalty imposed by law, the contravention may be restrained by action at the instance of the Commission or of the administrator of a pension plan affected by the contravention.

Service

113.—(1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by registered mail addressed to the person to whom it is to be given, served or delivered at his or her last known address.

Deemed service

(2) A notice, order or other document sent by registered mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he or she did not receive the notice, order or other document, or did not receive it until a later date, through absence, accident, illness or other cause beyond his or her control.

Time for actions by administrator

114. An administrator of a pension plan who is required to take an action under this Act or the regulations shall take the action within the prescribed period of time.

Conflict

1986, c. ...

115. In the event of a conflict between this Act and any other Act, this Act prevails unless the other Act states that it is to prevail over the *Pension Benefits Act, 1986*.

Regulations

116.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing the times for filing or the last dates for filing of documents that are required to be filed under this Act;
- (c) prescribing reports that shall be submitted to the Commission, the contents and the method of preparation of the reports and the persons or classes of persons by whom the reports must be prepared;

- (d) prescribing pension benefits that are not guaranteed by the Guarantee Fund;
- (e) prescribing assessments for the purposes of the Guarantee Fund and prescribing the classes of employers that shall pay such assessments;
- (f) prescribing procedures that shall govern the establishment of advisory committees and the appointments of members of advisory committees;
- (g) prescribing fees that shall be paid for copies of documents provided by the Commission;
- (h) prescribing the methods of calculating the values of assets and liabilities of pension funds;
- (i) prescribing criteria that must be complied with before any surplus may be paid out of a pension fund;
- (j) prescribing the rate or the method of determining the rate at which an employer shall pay moneys due from the employer under this Act on the winding up of a pension plan, and prescribing the manner of payment and to whom the payments shall be made;
- (k) regulating or prohibiting the investment of moneys from pension funds and prescribing investments or classes of investments in which such moneys may be invested;
- (l) prescribing requirements for retirement savings contracts and life annuity contracts between members of pension plans and trustees to whom administrators may make payment when required in accordance with this Act, requiring such trustees to file specimens of such contracts before such payments may be made, and authorizing the Superintendent to refuse to file a specimen contract that does not meet the requirements;
- (m) prescribing the rate of interest and the method of calculating interest payable under this Act or the regulations, if such rate or method is not specified in the requirement for payment of the interest;
- (n) prescribing forms and providing for their use;

- (o) prescribing the time within which any document specified in the regulations that this Act requires to be given, transmitted, filed or served shall be given, transmitted, filed or served;
- (p) prescribing requirements that shall be complied with in the administration of a pension plan;
- (q) prescribing records that shall be kept by the administrator of a pension plan and the period of time for which such records shall be retained by the administrator;
- (r) requiring the audit of pension plans or classes of pension plans and pension funds and classes of pension funds and prescribing the persons or classes of persons who may perform the audits and the manner of performing the audits;
- (s) prescribing the manner of determining the portion of a pension benefit, pension, deferred pension or ancillary benefit that is attributable to employment after the 31st day of December, 1986;
- (t) governing the wind up of pension plans or classes of pension plans and prescribing priorities or the method of determining priorities on wind up, including priorities in allocation of assets;
- (u) governing the receiving, holding and disbursing of pension benefits by any agency established or designated under this Act;
- (v) exempting any pension plan, class of pension plan or class of employees from the application of this Act or the regulations or from any section of this Act or the regulations.

Scope of
regulations

- (2) A regulation may be general or particular in its application and may be limited as to time or place or both.

Adoption of
codes in
regulations

- (3) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with a code, formula, standard or procedure so adopted.

Repeals

117. The *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980 and the *Pension Benefits Amendment Act*, 1983, being chapter 2, are repealed.

118. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

119. The short title of this Act is the *Pension Benefits Act*, Short title
1986.

Bill 171

An Act to amend the Power Corporation Act

Mr. Gordon

1st Reading December 9th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides that Ontario Hydro shall not build any new nuclear power facilities.

Bill 171**1986****An Act to amend the Power Corporation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

23a. The Corporation shall not commence construction of any new facilities to generate and produce nuclear power.

No new nuclear power plants
Commence-ment

2. This Act comes into force on the day it receives Royal Assent.

3. The short title of this Act is the *Power Corporation Amendment Act, 1986*.

Short title

Bill 172

An Act respecting Environmental Rights in Ontario

Mrs. Grier

1st Reading December 10th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for environmental rights in Ontario. The Bill permits an action to be brought in the Supreme Court of Ontario by any person for the protection of the environment. The Bill also provides for public notice and review of certain approvals, permits or other environment-related orders before the approvals, permits or orders come into force. Other provisions of the Bill provide for public access to information relating to environmental decisions and for regular review by the Environmental Assessment Board of all regulations affecting the environment. The Bill also permits the Lieutenant Governor in Council to establish a fund to assist persons and public interest groups for the purpose of ensuring that points of view representative of significant bodies of opinion are adequately represented in environmental proceedings.

Bill 172

1986

An Act respecting Environmental Rights in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I**INTERPRETATION AND PURPOSE****1. In this Act,****Definitions**

“Board” means the Environmental Assessment Board established under the *Environmental Assessment Act*;

R.S.O. 1980,
c. 140

“contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of people which may,

- (a) impair the quality of the environment or the public trust therein for any use that can be made of it,
- (b) cause injury or damage to property or to plant or animal life,
- (c) cause harm or material discomfort to any person,
- (d) adversely affect the health or impair the safety of any person, or
- (e) render any property or plant or animal life unfit for use by people,

and “contamination” has a corresponding meaning;

“Court” means the Supreme Court of Ontario;

“degradation” refers to any destruction or significant decrease in the quality of the environment or the public trust therein

other than a change resulting from contamination and "degrade" has a corresponding meaning;

"environment" means,

- (a) air, land or water,
- (b) plant and animal life, including people,
- (c) the social, economic and cultural conditions that influence the life of people or a community,
- (d) any building, structure, machine or other device or thing made by people,
- (e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of people, or
- (f) any part or combination of the foregoing and the inter-relationships between any two or more of them,

in or of Ontario;

"Minister" means the Minister of the Environment;

"public trust" means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;

"regulation" means a regulation made under an Act listed in the Schedule to this Act.

Environ-
mental
rights

2.—(1) The people of Ontario have a right to clean air, pure water and the preservation of the natural, scenic, historic and aesthetic values of the environment.

Idem

(2) Ontario's public lands, waters and natural resources are the common property of all the people, including generations yet to come, and, as trustee of those lands, waters and resources, the Government of Ontario shall conserve and maintain them for the benefit of present and future generations.

Declaration

(3) It is hereby declared that it is in the public interest to provide every person with an adequate remedy to protect and conserve the environment and the public trust therein from contamination and degradation.

3.—(1) A person who considers that the environment is being contaminated or degraded may in writing, specifying the nature of the contamination or degradation, request that the Minister investigate the alleged contamination or degradation.

Request for investigation

(2) Where the Minister receives a written request under subsection (1) and is satisfied that the request is made in good faith and is not frivolous, the Minister shall make, or cause to be made, any investigation that he or she considers necessary of the alleged contamination or degradation, its source, its effect on the environment and of any advisable remedial action.

Written request

(3) Upon an investigation referred to in subsection (2) being completed, the Minister shall provide a copy of the resulting report to the person who requested the investigation.

Report

PART II

CAUSE OF ACTION

4.—(1) Where an activity has contaminated or degraded or an activity is likely to commence, is commencing or is continuing that threatens to contaminate or degrade the environment, any person may commence an action in the Supreme Court of Ontario, without having to show any greater or different right, harm or interest than that of other members of the public or any pecuniary or proprietary right or interest in the subject-matter of the proceedings, against,

Right of action

(a) any person who is responsible for the activity; and

(b) any Minister responsible for regulatory, fiscal or proprietary control of the activity.

(2) Subsection (1) applies without any requirement that the person commencing the action allege or establish that there had been an infringement of an approval, permit, licence, standard, regulation, rule or order established by or under an Act listed in the Schedule.

Idem

(3) In an action commenced under this section, if the activity complained of is not governed by any legally established standard, the Court may hear evidence as to the standard, if any, that should apply to the defendant, having regard to,

Court may determine standard

(a) the right of the people of Ontario to the protection of the environment and the public trust therein against contamination or degradation;

- (b) the fulfillment of the widest range of beneficial uses of the environment without contamination or degradation; and
- (c) the achievement of a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities,

and the Court may order the defendant to comply with such standard as it may determine.

Security
for costs
or damages

5.—(1) At any time prior to a trial of the issue in any action commenced under this Act, any defendant or third party may apply to the Court for an order requiring the person bringing the action to post security for costs or damages.

Notice

(2) An application under subsection (1) shall be on notice to all parties and the Court may hear argument concerning the application from any party as to,

- (a) the seriousness of the offence or harm alleged;
- (b) the consequences to the defendant of the order sought; or
- (c) any other matter that the Court considers relevant to the posting of security for costs or damages.

Limitation
on order

(3) Upon the completion of the hearing referred to in subsection (2), if the Court is satisfied that the person bringing the action,

- (a) has a *prima facie* case to bring before the Court; and
- (b) is bringing the action for the protection of the environment or the public trust therein,

the Court shall not order the posting of security for costs or damages in an amount in excess of \$500.

Onus

6.—(1) Where the activity of the defendant that is the subject-matter of an action is not governed by a standard established by or under an Act listed in the Schedule or pursuant to subsection 3 (3) and where the plaintiff has established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the quality of the environment, the onus shall be on the defendant to establish in defence that there is no feasible and prudent alternative to the defendant's activity and that such activity is in the best inter-

ests of the public having regard to the matters set out in subsection 4 (3).

(2) It shall be a defence to an action commenced under this Act that the activity of the defendant that is the subject-matter of this action is authorized by a standard established by or under an Act listed in the Schedule unless the plaintiff can establish, on a balance of probabilities, that the activity has caused or is likely to cause severe or irreparable contamination or degradation to the environment.

Defence

(3) It shall not be a defence to an action commenced under this Act that,

Prohibited
defences

- (a) the defendant is not the sole cause of the alleged or potential contamination or degradation; or
- (b) it cannot be established that the contaminant which the defendant discharged or deposited or permitted to be discharged or deposited was the cause, in fact, of the contamination or degradation of the environment or the public trust therein, where the effect on the environment is of a nature consistent with the contaminant or source of degradation being the total or partial, immediate or mediate cause.

7. In an action commenced under this Act, where it has been established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the environment, the Court may grant either an interim or permanent injunction, order the defendant to remedy any damage caused by his activity, award damages, impose conditions on the defendant or make such other order as the Court may consider is necessary.

Injunction,
etc.

8.—(1) The Court may,

Reference

- (a) on the motion of any party; or
- (b) on its own motion,

refer any question or questions, except the final determination of the issue in question, to the Board as the Court may consider appropriate and the proceedings before the Board shall be conducted in accordance with and subject to the provisions of the *Statutory Powers Procedure Act* and when so referring, the Court may also grant an interim injunction or such other temporary relief as the Court considers necessary for the protection of the environment or the public trust therein pending

R.S.O. 1980,
c. 484

final determination of the issue and, in so referring, the Court shall retain jurisdiction of the action.

Order

(2) When the Board has completed its review and consideration of the question referred to it under subsection (1), the Board shall make recommendations concerning the matter in question to the Court, and the Court shall review the recommendations and make such order as it considers appropriate under section 7.

Inspector

9.—(1) In any action under this Act, the Court may appoint an inspector, who shall be a disinterested person and qualified as an expert in the relevant field, to take technical and scientific testimony under oath and make a record thereof and the inspector shall report his or her findings and opinion thereon to the Court without prejudice to the right of any party to examine the inspector or any person who has given testimony to the inspector.

Costs

(2) The Court may order that the costs of the inspector be paid in such manner and by such persons as the Court considers appropriate.

PART III

PARTIES, INTERVENORS *AMICUS CURIAE*, CLASS ACTIONS

Parties,
etc.

10. Whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, the board, tribunal, commission or court may permit any person to join as a party, intervenor or *amicus curiae* to the proceeding, appeal or review as the board, tribunal, commission or court may consider appropriate having regard to the purpose of this Act.

Class
actions

11.—(1) In an action under this Act, the Court may by order permit one or more persons to act as representatives of a class of persons where, in the opinion of the Court,

- (a) the claims of the representative party are typical of the claims of the class;
- (b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;
- (c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and

- (d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

(2) The Court may provide in the judgment of a class Judgment
action for subsequent determination of the amount and distribution of damages assessed against the defendant.

PART IV

INSTRUMENTS AND REGULATIONS

12.—(1) In this section,

Definitions

“appropriate board” means any board, tribunal or commission established by an Act listed in the Schedule empowered to hold hearings with respect to a matter relating to such Act, and where no such board exists, the Board;

“instrument” means any licence, permit, approval, certificate of approval, program approval, control order or other order made under an Act listed in the Schedule that would permit a person to contaminate or degrade the environment in contravention of any such Act or the regulations made thereunder;

“proper authority” means any authority designated by an Act listed in the Schedule empowered to issue any instrument pursuant to any such Act.

(2) Notwithstanding any other Act, no instrument shall have force and effect unless the proper authority has given notice of the proposed provisions of the instrument by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario and that is in accordance with the other provisions of this section.

Notice of
proposed
instrument

(3) Any person may, within thirty days of the giving of notice or within such longer time as may be stated in the notice,

Submissions

- (a) make written submissions to the proper authority with respect to the proposed provisions of the instrument; and
- (b) by written notice to the proper authority request a hearing by the appropriate board with respect to the proposed provisions of the instrument.

Idem

(4) Where the proper authority has received notice of a request for a hearing, it shall refer the matter to the appropriate board unless, in the opinion of the authority, the request is not made in good faith or is frivolous or is made only for the purpose of delay.

Idem

(5) Where the proper authority has declined to refer the matter to the appropriate board under subsection (4), the proper authority shall give notice for a hearing under subsection (3), together with written reasons therefor.

Where
instrument
may be
issued

(6) Where there is no notice of a request for a hearing under subsection (3), or where the proper authority has declined to refer the matter to the appropriate board under subsection (4), the proper authority may issue the proposed instrument,

(a) where there is no notice of a request for a hearing, not less than ten days after the time for filing such notice has elapsed;

(b) where the proper authority has declined to refer the matter to the relevant board, not less than twenty days after the time for filing such notice has elapsed.

Review of
instrument

(7) Any person may make an application to the Board requesting the Board to review an existing instrument having regard to the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, especially in the light of technological advances that can be applied in the Province of Ontario and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked.

Preliminary
hearing

(8) The Board shall hold a preliminary hearing to determine whether a *prima facie* case has been made in an application under subsection (7) unless the Board is of the opinion that the application is not made in good faith or is frivolous.

Notice

(9) Where the Board decides not to hold a preliminary hearing under subsection (8), or where the Board decides that a *prima facie* case has not been made under subsection (7), the Board shall give notice of its decision to the person making the application, together with written reasons therefor.

Notice of
hearing

(10) Where the appropriate board holds a hearing under subsection (4) or (7), the appropriate board shall,

- (a) appoint a time and place for the hearing at a city or town convenient to persons likely to be affected by the contamination or degradation;
- (b) cause notice to be given of the hearing,
 - (i) to the proper authority,
 - (ii) to any person who submitted notice to the proper authority under subsection (3),
 - (iii) to any person who submitted notice to the Board under subsection (7),
 - (iv) to any person as the appropriate board may direct, and
 - (v) to the public, by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario.

(11) Any hearing initiated under the provisions of this section shall be conducted according to the rules and procedures that apply to the appropriate board, including the rules and procedures established by this Act. Procedure

(12) Upon the completion of the hearing, the appropriate board may make such recommendations, order or decision in respect of the matter referred to it under this section as the board is empowered to make pursuant to its enabling Act. Recommendations,
etc.

(13) The proper authority may, in an emergency situation, issue an instrument that it is empowered to issue pursuant to an Act listed in the Schedule without complying with the other provisions of this section but, where the authority issues an instrument in an emergency situation, the authority shall take steps to comply with the provisions of this section within sixty days of the date on which the instrument was issued. Emergencies

13.—(1) In 1987 and every fifth year thereafter, the Board shall review all regulations that relate to the quality of the environment having regard to their adequacy to protect the environment and the public trust therein from contamination and degradation, especially in the light of technological advances that can be applied in the Province of Ontario. Review of
regulations

(2) The Board shall give public notice of the review and, during the review, may receive public submissions and evidence to the extent and in the manner that it considers appropriate. Public
notice

Report

(3) Upon completion of the review, the Board shall make a report thereon to the designated Minister, including in the report any recommended changes to the regulations, and the designated Minister, after receiving the report shall then lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Notice of
proposed
regulation

14.—(1) In this section, “regulation-making authority” means any authority designated by an Act listed in the Schedule empowered to make any regulation under any such Act.

Publication

(2) Where a regulation-making authority proposes to make a regulation, it shall cause the proposed regulation to be published in *The Ontario Gazette* at least sixty days before it proposes to file the regulation with the Registrar of Regulations and request briefs or submissions in relation to the proposed regulation.

Effect of
contravention

(3) A regulation filed in contravention of subsection (2) does not come into effect.

PART V

ACCESS TO INFORMATION

Definition

15.—(1) In this section, “designated Minister” means any minister designated by an Act listed in the Schedule to administer and enforce the provisions of any such Act.

Right to
information

(2) Every person has the right to obtain from any designated Minister any available information concerning the quantity, quality or concentration of contaminants emitted, issued, discharged or deposited by any source of contamination or degradation.

Right to
examine

(3) The designated Minister shall permit any person who applies therefor to examine any licence, permit, approval, certificate of approval, provisional certificate of approval, control order or other order, notice of intention to issue a control order, program approval, provisional certificate of approval, notice of violation of an Act listed in the Schedule, and any information in support of any such document, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

Idem

(4) The designated Minister shall permit any person who applies therefor to examine any report on any test, observation, inspection or analysis carried out by or under the Minister's authority relating to any operation subject to an Act

listed in the Schedule under the Minister's jurisdiction, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

(5) Notwithstanding subsections (3) and (4), the designated Minister may refuse an application made under subsections (3) and (4) where, in his or her opinion, the information sought to be disclosed contains,

Where
disclosure
may be
reduced

- (a) information the disclosure of which would be injurious to law enforcement or the conduct of lawful investigations, including investigative techniques or plans for specific lawful investigations;
- (b) information containing personal information respecting an identifiable individual including, without restricting the generality of the foregoing,
 - (i) vital statistics,
 - (ii) background personal information,
 - (iii) medical, criminal, educational or employment records or history,
 - (iv) the personal opinions or views of the individual, unless those opinions or views are given in the course of employment in the public service of the Government of Ontario;
- (c) information of a financial, commercial, scientific or technical sort,
 - (i) the disclosure of which could reasonably be expected to prejudice significantly the competitive position, or interfere significantly with contractual or other negotiations, of a person, group of persons, organization or government institution, or
 - (ii) the disclosure of which could reasonably be expected to result in undue financial loss or gain by a person, group of persons, organization or government institution,

and which, without restricting the generality of the foregoing, includes confidential technology, trade secrets, marketing information, customer lists, advertising budgets and funding sources; or

- (d) records of proposals and recommendations to and deliberations and proceedings of the Executive Council or any committee thereof.

Notice

(6) Where the designated Minister, under subsection (5), refuses an application for disclosure of information, he or she shall, within twenty days, so inform the applicant, together with written reasons thereof, and the Minister shall inform the applicant of the applicant's right of appeal to the Board.

Hearing

(7) Any applicant may, within fifteen days of receipt of a notice under subsection (6), by written notice served upon the designated Minister and the Board, require a hearing before the Board.

Idem

(8) In a hearing under subsection (7), the Board shall take every precaution, including, when appropriate, receiving representations without notice and conducting hearings in private, to avoid disclosure by the Board or any other person of any information the disclosure of which may be refused under this section.

Onus

(9) In a hearing under subsection (7), the onus of establishing that access to the information may be refused shall be on the designated Minister concerned.

Order

(10) At the conclusion of the hearing, the Board may make such order as it considers appropriate, having regard to the provisions of this section, and without restricting the generality of the foregoing, may,

- (a) order the disclosure of all or part of the information sought to be disclosed; or
- (b) where the Board has determined that the information should not be disclosed, order that a non-confidential summary of all or any part of the information be prepared.

Appeal

(11) An appeal lies to the Divisional Court of Ontario from a decision of the Board on a point of law or jurisdiction.

PART VI

PUBLIC INTEREST FUNDING

Definition

16.—(1) In this section, "Fund" means the Environmental Hearing Assistance Fund.

(2) The Lieutenant Governor in Council may establish a Fund to be known as the Environmental Hearing Assistance Fund.

Fund

(3) Where a Fund has been established under subsection (2), the moneys required for the purposes of the Fund shall be paid out of the Consolidated Revenue Fund in the fiscal year during which it is established and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Idem

(4) Subject to subsection (5), whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, any party or intervenor who engages in proceedings for the purpose of protecting and conserving the environment may, at any time, make an application for financial assistance to the Board.

Financial assistance

(5) A person may apply under subsection (4) only where that person,

Idem

- (a) represents an interest representative of significant bodies of opinions that would otherwise not be represented at the proceedings; and
- (b) does not have sufficient financial resources to enable him to adequately represent that interest.

(6) Where a Fund is available and the Board is satisfied financial assistance is appropriate, the Board may order that a sum be paid to the applicant therefor from the Fund in such manner, at such times and in such amount as the Board considers appropriate.

Idem

(7) No person is precluded from applying under subsection (4) by reason only that he has previously received financial assistance under subsection (6).

Idem

(8) Where it appears to the Board that several parties or intervenors having identical or substantially similar interests have applied for financial assistance from the Board, the Board may consolidate the applications and make such order concerning payment as it considers appropriate.

Consolidating applications

(9) In considering the sum to be awarded to any applicant, the Board shall have regard to all the attendant costs associated with participating in the proceedings, including,

Matters to be considered

- (a) legal fees;

- (b) disbursements;
- (c) conduct money;
- (d) witness fees;
- (e) fees for relevant reports and studies; and
- (f) any other cost that is relevant and appropriate to participation in the proceedings.

PART VII

EMPLOYEE RIGHTS

No discipline,
dismissal,
etc.,
by employer

17.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to the appropriate authority an act that contaminates or degrades the environment.

Penalty
for
offence

(2) Where an employer is convicted of an offence under subsection (1), the provincial judge making the conviction shall, in addition to the penalty, order what action the employer shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with compensation for loss of wages and other benefits to be assessed against the employer.

Offence

(3) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

PART VIII

MISCELLANEOUS

Common law
remedies
preserved

18. Nothing herein contained shall be construed so as to repeal, remove or reduce any existing remedy available at law to any person.

19. Where a conflict appears between any other Act, including the *Environmental Protection Act*, the provision of this Act shall prevail.

Conflict
R.S.O. 1980,
c. 141

20. This Act binds the Crown.

Crown

21. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

22. The short title of this Act is the *Ontario Environmental Rights Act, 1986*.

Short title

SCHEDULE

Conservation Authorities Act

Consolidated Hearings Act, 1981

Drainage Act

Environmental Assessment Act

Environmental Protection Act

Mining Act

Niagara Escarpment Planning and Development Act

Ontario Waste Management Corporation Act, 1981

Ontario Water Resources Act

Pesticides Act

Pits and Quarries Control Act

Planning Act, 1983

Bill 173

An Act to amend the Theatres Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations

<i>1st Reading</i>	December 11th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

SECTION 1. The subsections being repealed provide that the Director shall report annually to the Minister. The reporting duties are being transferred to the chairman.

SECTION 2. Section 3 of the Act currently provides that the Director shall be the chairman of the Board. The effect of the proposed amendment would be to have a board member, appointed by the Lieutenant Governor in Council, as chairman. The chairman will report annually to the Minister. This is complementary to section 1 of the Bill.

Bill 173

1986

An Act to amend the Theatres Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 2 (3) and (4) of the *Theatres Act*, being chapter 498 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 56, section 2, are repealed.

2. Subsections 3 (1) and (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 56, section 3, are repealed and the following substituted therefor:

(1) The board known as the Ontario Film Review Board is continued and shall consist of a chairman of the Board and such other persons as the Lieutenant Governor in Council may appoint. Board

(2) The Lieutenant Governor in Council may designate one member of the Board as chairman and one or more members of the Board as a vice-chairman. Chairman, vice-chairman

(2a) The chairman of the Board shall provide the Minister with an annual report on the activities of the Board. Annual report

(2b) Upon receiving a report under subsection (2a), the Minister shall forthwith lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Idem

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. The short title of this Act is the *Theatres Amendment Act*, 1986. Short title

Bill 174

An Act to amend the Proceedings Against the Crown Act

The Hon. I. Scott
Attorney General

1st Reading December 11th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

Section 25 of the Act permits garnishment against the Crown. The amendment provides that the garnishment is effective against only the amounts payable to the debtor by the administrative unit served with notice of garnishment. The amendment also enlarges the authority to make regulations in order to provide for a form of statement of particulars, to provide for the method of service and to extend the response time to an additional period of not more than thirty days.

Bill 174

1986

**An Act to amend the
Proceedings Against the Crown Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 25 (2a) of the *Proceedings Against the Crown Act*, being chapter 393 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1985, chapter 6, section 16, is amended by adding at the end thereof “subject to section 7 of the *Wages Act*”.

(2) Subsection 25 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 88, section 1 and amended by the Statutes of Ontario, 1985, chapter 6, section 16, is repealed and the following substituted therefor:

(3) A garnishment is effective against the Crown only in respect of amounts payable on behalf of the administrative unit served with notice of garnishment to the person named in the notice of garnishment. Limitation

(4) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the method of service on the Crown of notices of garnishment in place of the method prescribed in section 14;
- (b) providing that a notice of garnishment issued against the Crown is not effective unless a statement of particulars in the prescribed form is served with the notice of garnishment;
- (c) providing that a notice of garnishment issued against the Crown shall be deemed to be served on the day that is the number of days specified in the regulation after the actual date of service or after the effective date of service under the rules of the

court that issued the notice of garnishment, as the case may be, but the regulation shall not specify more than thirty days as the number of days;

- (d) prescribing the form of statement of particulars for the purposes of this section.

Interpretation

R.S.O. 1980,
cc. 106, 235

(5) In this section, "administrative unit" means a Ministry of the Government of Ontario, a Crown agency within the meaning of the *Crown Agency Act* or the Office of the Assembly under the *Legislative Assembly Act*.

**Commence-
ment**

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is the *Proceedings Against the Crown Amendment Act, 1986*.

Bill 175

An Act to ban Sunday racing and intertrack wagering at Greenwood Raceway and to provide for public input into decisions of the Ontario Racing Commission

Ms Bryden

1st Reading December 11th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 2. Racing and intertrack wagering on Sunday is banned.

SECTION 3. A mechanism is set up requiring the Ontario Racing Commission to hold a public hearing and consider any submissions of interested persons residing near Greenwood Raceway before making a decision concerning the Raceway that may affect the quality of those persons' lives.

SECTION 4. A decision of the Commission under section 3 is made subject to review by an independent adjudicator, whose decision is final.

SECTION 5. Self-explanatory.

SECTION 6. Self-explanatory.

SECTION 7. The *Racing Commission Act* is amended to provide that the Commission be composed of seven members, of whom only three can be representatives of the racing industry. Of the others, one must live within one kilometre of the Greenwood Raceway, two must live within four kilometres of a race track in Ontario and the seventh, the chairman, must be independent of the industry and the residents living in the vicinity of race tracks.

Bill 175

1986

**An Act to ban Sunday racing and
intertrack wagering at Greenwood Raceway
and to provide for public input into decisions
of the Ontario Racing Commission**

Whereas, the Greenwood Raceway is the only race track in Ontario located in a large, high density, urban residential area; and whereas the people who live in the vicinity of the Greenwood Raceway are seriously disadvantaged and suffer a deterioration in the quality of their lives as a result of the parking, traffic and transit congestion and by the noise and litter that the operation of the Greenwood Raceway causes to them close to 300 days each year; and whereas the Greenwood Raceway has had a tradition of not operating on Sunday since it opened more than 100 years ago; and whereas it is in the public interest to ensure that the people who live in the vicinity of the Greenwood Raceway are treated fairly and justly by being permitted to have Sundays free of racing activities and to have quiet enjoyment of their homes and property on that day; and whereas the people who live in the vicinity of the Greenwood Raceway and of other race tracks are not given an opportunity to affect the decisions of the Ontario Racing Commission regulating the days and hours of racing and intertrack wagering for race tracks in Ontario even though those decisions have a major impact on those people's lives;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

"Commission" means the Ontario Racing Commission established under the *Racing Commission Act*;

R.S.O. 1980,
c. 429

"Raceway" means the Greenwood Raceway, located on Queen Street East in the City of Toronto.

No Sunday
race track
activities

2. There shall be no racing or intertrack wagering activities carried on at the Raceway on Sundays.

Opportunity
to be
heard

3.—(1) Before the Commission makes any decision concerning the operation of the Raceway that may affect the quality of life of the persons who live within one kilometre of the Raceway, it shall hold a public hearing and give full consideration to any oral or written submissions concerning the proposed decision made at that hearing by persons who live within one kilometre of the Raceway and by representatives of any organizations representing those persons.

Notice of
hearing

(2) At least three weeks before holding a public hearing under subsection (1), the Commission shall publish a notice of public hearing in at least two daily newspapers having general circulation in Toronto and shall post the notice outside the entrance to the Raceway.

Contents of
notice of
hearing

(3) The notice published and posted under subsection (2) shall state,

- (a) the decision that is proposed to be made;
- (b) the date, time and place for the hearing; and
- (c) that persons who live within one kilometre of the Raceway and representatives of organizations representing those persons are invited to make oral or written representations to the Commission concerning the proposed decision at the hearing.

Reasons for
decision

(4) The Commission shall give written reasons for any decision made under this section and shall make a copy of those reasons available to any member of the public who so requests.

Notice of
decision

(5) Where, after holding a public hearing under subsection (1), the Commission makes a decision concerning its proposal, it shall publish a notice of its decision in at least two daily newspapers having general circulation in the City of Toronto and shall post a notice of its decision outside the entrance to the Raceway and that notice shall inform persons of where they may obtain copies of the reasons for the decision.

Appeal

4.—(1) Where, within thirty days after a decision of the Commission made under section 3 is published and posted, at least ten persons who live within one kilometre of the Raceway notify the Chief Justice of the Supreme Court of Ontario in writing of their desire to have the decision reviewed, there

shall be a review of the decision and the Chief Justice shall appoint an adjudicator to carry out that review.

(2) An adjudicator appointed under subsection (1) shall by whatever means the adjudicator deems appropriate consider the position of the Commission, representatives of the racing industry, the persons who requested the review and any other persons who live within one kilometre of the Raceway and shall make whatever decision he or she considers appropriate.

Adjudicator
to make
decision

(3) An adjudicator appointed under subsection (1) may attempt to mediate or settle any outstanding matters while conducting a review.

Adjudicator
may mediate

(4) A decision of an adjudicator is final.

Decision
final

(5) The *Statutory Powers Procedure Act* does not apply to a review by an adjudicator under this Act.

Non-
application of
R.S.O. 1980,
c. 484

(6) The Minister responsible for administering the *Racing Commission Act* shall pay an adjudicator appointed under subsection (1) such fees and expenses as are prescribed by the regulations.

Fees of
adjudicator
R.S.O. 1980,
c. 429

5. The Lieutenant Governor in Council may make a regulation prescribing the fees and expenses payable to an adjudicator under this Act.

Regulations

6. The provisions of this Act are in addition to the provisions of the *Racing Commission Act*, and in the event of a conflict between a provision of that Act and a provision of this Act, the provision of this Act shall prevail.

Conflict

7.—(1) Section 2 of the *Racing Commission Act*, being chapter 429 of the Revised Statutes of Ontario, 1980, is amended by striking out “not fewer than three and not more than” in the third and fourth lines.

(2) The said section 2 is further amended by adding thereto the following subsection:

(2) Four of the persons appointed under subsection (1) shall be persons who are not connected with the horse racing industry and of those,

Idem

(a) one shall be a person who resides within one kilometre of the Raceway;

(b) two shall be persons who reside within four kilometres of a race track in Ontario; and

- (c) one shall be a person who is independent of the horse racing industry and of the persons who live in the vicinity of race tracks in Ontario.

(3) Subsection 5 (1) of the said Act is repealed and the following substituted therefor:

Chairman
and vice-
chairman

(1) The person appointed under clause 2 (2) (c) shall be the chairman and the Lieutenant Governor in Council shall name one of the other members to be the vice-chairman.

Commence-
ment

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. The short title of this Act is the *Greenwood Raceway Act, 1986*.

Bill 176

An Act to amend the Nursing Homes Act

The Hon. M. Elston
Minister of Health

1st Reading December 16th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill provides that the fundamental principle to be applied in interpreting the Act is that a nursing home is primarily the home of its residents. The Bill also sets out additional principles to be used in interpreting the Act.

The Minister is given discretion to consider the effect of the concentration of ownership of nursing homes and the balance between profit oriented and non-profit oriented nursing homes in deciding whether to grant a nursing home licence.

The Bill permits the Director to undertake to issue a licence to an applicant for a licence subject to the applicant satisfying specified conditions.

The Act now prohibits transfers of licences. The Bill regulates the surrender of licences and their issuance to new licensees and provides for the scrutiny of transfers by indirect means and share transfers of corporations that own licences.

The Bill requires persons who suspect that a resident has or may suffer harm as a result of unlawful conduct, neglect or improper or incompetent care or treatment to report that belief to the Director.

The Bill provides for the establishment in each nursing home of a residents' council, composed of residents and their representatives and a residents' council advisory committee, composed of elected and appointed members. The advisory committee is to advise residents, to receive and investigate complaints, to assist residents in dealings with licensees, to review the operations of nursing homes, to report to the residents' council and to report their concerns or recommendations to the Minister. The Minister is authorized to hire residents' council advisors to assist residents' council advisory committees.

The Bill provides that licensees shall post financial statements respecting the operation of the nursing homes.

A number of other amendments, including housekeeping amendments, are included in the Bill.

Bill 176

1986

An Act to amend the Nursing Homes Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Nursing Homes Act*, being chapter 320 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 55, section 223, is further amended by adding thereto the following clauses:

(aa) “committee” means a residents’ council advisory committee;

.

(ba) “equity share” means a share of a class of shares of a corporation that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

.

(j) “security interest” means an agreement between a person and a licensee that secures the licensee’s payment or performance of an obligation by giving the person an interest in the licence.

(2) The said section 1 is further amended by adding thereto the following subsections:

(2) A person shall be deemed to have a controlling interest in a corporation if the person alone or with an associate directly or indirectly beneficially owns or controls,

Controlling
interest

(a) issued and outstanding equity shares in the corporation in an amount to permit the person to direct the management and policies of the corporation; or

(b) 10 per cent or more of the issued and outstanding equity shares in the corporation.

Associates

(3) One person shall be deemed to be an associate of another person if,

- (a) one person is a corporation of which the other person is an officer or director;
- (b) one person is a partnership of which the other person is a partner;
- (c) one person is a corporation that is controlled directly or indirectly by the other person;
- (d) both persons are corporations and one person is controlled directly or indirectly by the same individual or corporation that controls directly or indirectly the other person;
- (e) both persons are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both persons are associates within the meaning of clauses (a) to (e) of the same person.

Calculating shares

(4) In calculating the total number of equity shares of a corporation beneficially owned or controlled for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as having the number of shares equal to the total number of votes it carries.

2. The said Act is amended by adding thereto the following section:

Fundamental principle

1a.—(1) The fundamental principle to be applied in the interpretation of this Act and the regulations is that a nursing home is primarily the home of its residents and as such it is to be operated in such a way that the physical, psychological, social, cultural and spiritual needs of each of its residents are adequately met and that its residents are given the opportunity to contribute, in accordance with their ability, to the physical, psychological, social, cultural and spiritual needs of others.

Further principles

(2) Without restricting the generality of the foregoing, this Act and the regulations are to be interpreted so as to advance the objective that nursing homes be operated in accordance with the following principles:

1. Each resident shall be treated with dignity, courtesy and respect.
2. Each resident shall be properly sheltered, fed, clothed, groomed and cared for in a manner consistent with his or her needs.
3. Each resident shall have a reasonable opportunity to keep in his or her room and display personal possessions, pictures and furnishings, in keeping with space limitations, safety requirements and other residents' rights.
4. Each resident shall have the right to consent to the giving or refusing of medical treatment or medication in accordance with the law and shall be given the opportunity to obtain an independent medical opinion concerning any proposed medical treatment or medication.
5. Each resident shall have the opportunity to participate fully in making any decision and obtaining an independent medical opinion with respect to any decision concerning his or her admission, discharge or transfer to or from a nursing home.
6. Each resident shall have the opportunity to communicate in confidence, to receive visitors and to consult in private with any other person without interference.
7. Each resident shall have the opportunity to form friendships, to enjoy relationships and to participate in the residents' council.
8. Each resident shall have the opportunity to pursue his or her social, cultural and other interests and to develop to his or her potential.
9. Each resident shall have the right to be informed of any law, rule or policy affecting the operation of the nursing home and to express his or her opinion concerning the operation of the nursing home without fear of reprisal.
10. Each resident shall respect the rights of other persons in the nursing home and shall treat other persons in the nursing home with dignity, courtesy and respect.

Principles
implied
in contracts

(3) Every contract relating to the admission of a resident to a nursing home shall be deemed to include the undertaking of the licensee to operate the home in accordance with the principles set forth in subsections (1) and (2).

Copies to
residents

(4) Every licensee shall post a copy of subsections (1), (2) and (3) in a prominent place in the nursing home and shall give a copy of them to each resident and a representative of the resident, if any, when the resident is admitted to the nursing home.

Transition

(5) Every licensee shall forthwith after the coming into force of this Act give a copy of subsections (1), (2) and (3) to every person who is a resident at that time and to a representative of that person, if any.

3.—(1) Subsection 4 (1) of the said Act is amended by striking out “subsection (2)” in the first line and inserting in lieu thereof “the following subsections”.

(2) Subsection 4 (2) of the said Act is amended by striking out “Notwithstanding subsection (1)” in the first line.

(3) Subsection 4 (3) of the said Act is amended by striking out “Notwithstanding subsection (1)” in the first line.

(4) Subclause 4 (4) (d) (ii) of the said Act is amended by striking out “or” and inserting in lieu thereof “and”.

(5) Section 4 of the said Act is amended by adding thereto the following subsection:

Idem

(4a) In considering under subsection (2) whether it is in the public interest to grant a licence to establish, operate or maintain a nursing home in an area, the Minister shall also take into account,

(a) the effect that granting the licence would have on the concentration of ownership of nursing homes in Ontario; and

(b) the effect that granting the licence would have on the balance between non-profit and profit-oriented nursing homes in Ontario.

(6) Subsection 4 (5) of the said Act is repealed and the following substituted therefor:

Grounds for
refusal

(5) Subject to section 7, the Director may refuse to issue a licence where in the Director's opinion,

- (a) the proposed nursing home or its operation would contravene this Act or the regulations or any other Act or regulation or any municipal by-law respecting its establishment or location;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home will not be operated in accordance with the law and with honesty and integrity;
- (c) the applicant or, where the applicant is a corporation, its officers or directors or the persons with a controlling interest in it are not competent to operate a nursing home in a responsible manner in accordance with this Act and the regulations or are not in a position to furnish or provide the required services; or
- (d) the past conduct of the applicant, or where the applicant is a corporation, of its officers, directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home will be operated in a manner that is prejudicial to the health, safety or welfare of its residents.

(7) Subsection 4 (8) of the said Act is repealed.

4. The said Act is further amended by adding thereto the following sections:

4a.—(1) The Director may undertake to issue a licence to an applicant on condition that the applicant agrees to satisfy the conditions specified by the Director.

Undertake to
issue licence

(2) Where the Director determines that the applicant has complied with the specified conditions, the Director shall issue the licence.

Issue licence,
if conditions
met

(3) Where the Director determines that the applicant has not complied with the specified conditions, the Director by written notice to the applicant may propose to cancel the undertaking.

Notice
to cancel
undertaking

(4) The applicant may submit to the Minister a written request for review asking that the Minister extend the undertaking and amend its conditions.

Request
for review

Minister's
decision

(5) Where the Minister receives a request for review within fifteen days after delivery of the notice under subsection (3), the Minister may extend the undertaking and amend its conditions or may cancel the undertaking.

Undertaking
cancelled

(6) Where the Minister does not receive a request for review within fifteen days after delivery of the notice under subsection (3), the undertaking shall be deemed to be cancelled.

Surrender
and issue
of licence

4b.—(1) Where a licensee notifies the Director that the licensee intends to surrender a licence to the Director on condition that the Director issue in its place a licence to a specified person, the specified person may apply for the issuance of the licence under this Act.

Idem

(2) Subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications to an application for a licence under subsection (1).

Idem

(3) Upon receiving notice that the Director intends to approve an application under subsection (1), the licensee shall surrender the licence and the Director shall issue a licence to the applicant.

Share
transfer
R.S.O. 1980,
c. 466

4c.—(1) Where a corporation that is a private company as defined in the *Securities Act* is a licensee, it shall not permit an issue or transfer of equity shares of its capital stock that has the effect of changing the ownership or controlling interest in the corporation without the prior approval of the Director.

Idem

(2) In deciding whether to approve an issue or a transfer of shares under subsection (1), the Director shall treat the corporation as proposed to be constituted after the transfer as if it were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

Duty of
corporation
to notify
Director

4d.—(1) Where a licensee is a corporation, the licensee shall notify the Director in writing within fifteen days of any change in the officers or directors of the corporation.

Idem

(2) Where a corporation has an interest in a licence, and the corporation or its officers or directors have reason to believe that an issue or transfer of equity shares of its capital stock or the happening of a condition by which shares of its capital stock acquire voting rights results or may result in a person acquiring a controlling interest in the corporation, the person shall so notify the Director forthwith.

(3) The Director from time to time, in writing, may direct a corporation that has an interest in a licence or its officers or directors to provide the names and addresses of all of the officers and directors of the corporation and a statement concerning the ownership or beneficial ownership of equity shares of capital stock in the corporation, which statement shall contain the information that in the opinion of the Director is reasonably necessary to enable the Director to determine,

Statement
required

- (a) what persons, if any, have a controlling interest in the corporation; and
- (b) what persons, if any, own or beneficially own directly or indirectly the persons or a controlling interest in the persons mentioned in clause (a).

4e.—(1) A person who has a security interest in a licence shall not exercise that interest without the approval of the Director if exercise of the interest would change the ownership or controlling interest in the licence.

Exercise
of security
interest

(2) In deciding whether to approve an exercise of a security interest under subsection (1), the Director shall treat the person seeking to exercise the interest as if the person were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

Matters
to be
considered

4f.—(1) A licensee shall not enter into a contract whose effect is to change the management of a nursing home or the ownership or controlling interest in a licence without the approval of the Director.

Management
contracts

(2) In deciding whether to approve a contract described in subsection (1), the Director shall treat the person who would take over the management of the nursing home or the ownership or controlling interest in the licence under the contract as if the person were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

Matters
to be
considered

5. Clauses 5 (d) and (e) of the said Act are repealed and the following substituted therefor:

- (d) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home is not being or will not be operated in accordance with the law and with honesty and integrity;

- (e) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the licensee, officers, directors or persons are not competent to operate a nursing home in a responsible manner in accordance with this Act and the regulations or are not in a position to furnish or provide the required services;
- (f) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home is being operated or will be operated in a manner that is prejudicial to the health, safety or welfare of its residents;
- (g) the licensee has ceased operating the nursing home for a period of at least six months and is not taking reasonable steps to prepare the nursing home to re-open;
- (h) the licensee is a corporation described in subsection 4c (1) that has permitted an issue or transfer contrary to that subsection;
- (i) a corporation or its officers or directors have failed to make a report or statement to the Director, contrary to section 4d;
- (j) a person who has a security interest in a licence has exercised that interest contrary to subsection 4e (1) without the approval of the Director; or
- (k) the licensee has entered into a contract described in subsection 4f (1) without the approval of the Director.

6. Section 7 of the said Act is amended by adding thereto the following subsections:

Idem

(2a) A licensee who requires a hearing shall provide proof with the notice requiring a hearing that the licensee has mailed or delivered to the residents' council and has posted in a prominent place in the nursing home a copy of the Director's notice with written reasons therefor and a copy of the notice requiring a hearing.

(4a) Before the Board hears a matter it must be satisfied that the applicant or licensee has been given a reasonable opportunity to comply with all the lawful requirements for the issue or retention of the licence where it would be just and reasonable to do so. Opportunity
to comply

7.—(1) Subsection 8 (1) of the said Act is repealed and the following substituted therefor:

(1) The following are parties before the Board under this Act, Parties

- (a) the Director;
- (b) the applicant or the licensee who has required the hearing;
- (c) an agent for the residents' council; and
- (d) any other person the Board may specify.

(2) Subsection 8 (2) of the said Act is repealed and the following substituted therefor:

(2) The Board may permit any person who is not a party before it, including a resident, a representative of a resident, an employee of a nursing home or any other person who may be affected by its decision, to make written or oral submissions to the Board, and where it does so those submissions may be made either personally or through an agent. Submissions

(3) Subsection 8 (3) of the said Act is amended by striking out "An applicant or licensee who is" in the first line and by inserting after "subsection (1)" in the second line "and a person who is permitted to make submissions to the Board under subsection (2)".

(4) Subsection 8 (7) of the said Act is amended by striking out "and heard the evidence and argument of the parties" in the third and fourth lines and inserting in lieu thereof "heard the evidence and argument of the parties and read or heard any written or oral submissions made under subsection (2)".

8. Section 11 of the said Act is repealed.

9. Subsection 12 (3) of the said Act is amended by inserting after "revoked" in the first line "and the revocation becomes final or where the nursing home is otherwise being operated without a licence".

10.—(1) Subsection 13 (2) of the said Act is amended by striking out “reduction in” in the second line and inserting in lieu thereof “reducing or increasing” and by striking out “reduction” in the fourth line and inserting in lieu thereof “reducing or increasing”.

(2) Section 13 of the said Act is amended by adding thereto the following subsections:

Agreement
for extra
services

(3) The Minister may enter into an agreement with a licensee for the provision of services in addition to those provided for under this Act and the regulations.

Copy to
residents'
council

(4) Upon entering into an agreement with the Minister under subsection (3), the licensee shall provide a copy of the agreement to the residents' council.

11.—(1) Section 14 of the said Act is amended by striking out “or” at the end of clause (b) and by adding thereto the following clauses:

(d) for services entered into under an agreement described in subsection 13 (3), the amount provided for by the agreement;

(e) for services not mentioned in clauses (a) through (c) that are designated by the regulations, the amount prescribed by the regulations; or

(f) for services not mentioned in clauses (a) through (e), the amount provided for under written agreements for those services between the licensee and the individual residents.

(2) The said section 14 is further amended by adding thereto the following subsection:

Idem

(2) The Director may permit a licensee to charge a specific amount greater than the amount prescribed by the regulations for a service described in clause (1) (e) where the licensee demonstrates to the Director that the actual cost of providing the service is greater than the amount prescribed by the regulations.

12. Section 15 of the said Act is repealed and the following substituted therefor:

Recovery
of excess
payment

15.—(1) Where any payment referred to in clause 14 (1) (a) or (d) is accepted by or on behalf of a licensee and the payment exceeds the amount permitted under section 14

or the service has not been rendered or has been inadequately rendered, the Minister may,

- (a) withhold payments due to the licensee to recover the excess payment or the amount for which no service or inadequate service was rendered; or
- (b) bring an action to recover from the licensee that amount, with costs, by action in a court of competent jurisdiction.

(2) Where any payment referred to in clause 14 (1) (b), (c), ^{Idem} (e) or (f) is accepted by or on behalf of a licensee and the payment exceeds the amount permitted under section 14, the service has not been rendered or has been inadequately rendered or in the case of a service described in clause 14 (1) (f) there was no written agreement, the Minister may,

- (a) order the licensee to pay back to the person from whom it was accepted the excess payment or the amount for which no service or inadequate service was rendered; or
- (b) withhold payments due to the licensee for the purpose of recovering the excess payment or the amount for which no service or inadequate service was rendered and pay the amount recovered to the person from whom it was accepted by or on behalf of the licensee.

13. Subsection 16 (2) of the said Act is amended by inserting after "inspector" wherever it occurs "and residents' council advisor".

14.—(1) Subsection 17 (1) of the said Act is repealed and the following substituted therefor:

(1) An inspector without a warrant at any time may enter upon the premises, including the business premises, of a nursing home to make an inspection to ensure that the provisions of this Act and the regulations are being complied with. ^{Inspection}

(2) Subsection 17 (2) of the said Act is amended by striking out "may at any reasonable time" in the fourth line and inserting in lieu thereof "without a warrant at any reasonable time may".

(3) Section 17 of the said Act is amended by adding thereto the following subsection:

Warrant

R.S.O. 1980,
c. 400

(2a) No inspector shall enter any room or place that is not in a nursing home and that is actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*.

(4) Subsection 17 (3) of the said Act is repealed and the following substituted therefor:

Powers on
inspection

(3) Upon an inspection under this section, the inspector,

- (a) is entitled at any reasonable time to free access to all books of account, documents, bank accounts, vouchers, correspondence and records, including payroll records, records of staff hours worked, medical and drug records and any other records that are relevant for the purposes of the inspection or required to be kept under this Act or the regulations;
- (b) upon giving a receipt therefor and showing the certificate of appointment issued by the Minister, may remove any material referred to in clause (a) that relates to the purpose of the inspection in order to make a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person whose premises are being inspected;
- (c) may inspect the premises and operations;
- (d) may examine or test samples of substances to ensure that the regulations are being complied with; and
- (e) upon giving a receipt therefor and showing the certificate of appointment issued by the Minister, may remove a substance or a sample of a substance referred to in clause (d) in order to conduct further tests, for any purpose reasonably necessary to carry out effectively the purposes of this Act.

Not to
obstruct
inspector

(3a) No person shall obstruct the inspector or withhold, destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection.

(5) Section 17 of the said Act is further amended by adding thereto the following subsection:

(4a) A certificate as to the result of any test that contains the name and a statement of the qualifications of the person who conducted the test and purports to be signed by that person is, without proof of the office or signature of that person, receivable in evidence as *prima facie* proof of the facts stated in the certificate for all purposes in any proceeding or prosecution if it has been served on any party or defendant to the proceeding or prosecution within a reasonable time before the proceeding or trial in which it is to be adduced.

Admissibility
of test results

(6) Subsection 17 (5) of the said Act is repealed.

15. The said Act is further amended by adding thereto the following sections:

17a.—(1) A person who has reasonable grounds to suspect that a resident has suffered or may suffer harm as a result of unlawful conduct, improper or incompetent treatment or care or neglect shall forthwith report the suspicion and the information upon which it is based to the Director.

Reporting
of harm to
resident

(2) No person shall dismiss, discipline, penalize, coerce, intimidate or attempt to coerce or intimidate another person because the other person has,

No discipline
for reporting

- (a) made a report to the Director under subsection (1);
- (b) advised the Director of a breach of this Act or the regulations; or
- (c) advised the Director of any other matter concerning the care of a resident or the operation of a nursing home that the other person believes ought to be reported to the Director,

unless the other person acts maliciously or without reasonable grounds.

(3) No person shall include in a report to the Director under subsection (1) information the person knows to be false.

Idem

(4) Notwithstanding that the information on which a report may be based is confidential or privileged, subsection (1) also applies to a legally qualified medical practitioner or a person registered under the *Health Disciplines Act* to practice a health discipline and no action for making the report shall be commenced against a practitioner or person who acts in accordance with subsection (1) unless that person acts maliciously or without reasonable grounds for the suspicion.

Duty on
practitioners

R.S.O. 1980,
c. 196

Privilege
of
solicitor

(5) Nothing in this section abrogates any privilege that may exist between a solicitor and the solicitor's client.

Licensee
to forward
complaints

17b. A licensee shall forward forthwith on receipt to the Director any written complaint the licensee receives concerning the care of a resident or the operation of the nursing home.

Financial
statement

17c.—(1) A licensee shall, at the end of the licensee's fiscal year, prepare or cause to be prepared for each of the licensee's nursing homes a financial statement for the operation of that nursing home, including,

(a) a statement of profit and loss for that fiscal year; and

(b) any other matters respecting its financial operation that are prescribed by the regulations.

Statement to
be filed

(2) A licensee shall file the financial statement referred to in subsection (1) with the Minister within ninety days after the end of the licensee's fiscal year.

Posting
and public
inspection

(3) The licensee shall post a copy of the financial statement referred to in subsection (1) in a prominent place in the nursing home.

Residents'
council

17d.—(1) Whenever at least three persons who are either residents in a nursing home or representatives of residents so request, a residents' council shall be established for that nursing home.

Idem

(2) The residents' council shall be established and conducted in the manner provided for by the regulations.

Members

(3) Each resident, or where the resident is unable to participate, the resident's legal representative may be a member of the residents' council and, in addition, a person selected by the resident or the legal representative may be a member of the residents' council.

Idem

(4) No licensee or where the licensee is a corporation, no officer, director or person with a controlling interest in it and no member of the staff of a nursing home shall be a member of a residents' council.

Residents'
council
advisory
committee

17e.—(1) There shall be established for each residents' council a residents' council advisory committee to be composed of,

- (a) no fewer than three and no more than seven members, to be elected by the residents' council from among its members; and
- (b) no more than three members who live in the area in which the nursing home is located, to be appointed by the Minister.

(2) It is the function of a committee and it has the power to, Powers of committee

- (a) advise residents respecting their rights and obligations under this Act;
- (b) advise residents respecting the rights and obligations of the licensee under this Act;
- (c) receive and investigate complaints from residents and other persons;
- (d) meet regularly with the licensee to,
 - (i) review Ministry inspection reports,
 - (ii) review the allocation of money for food, supplies and services provided by the nursing home,
 - (iii) review the financial statement filed under section 17c when it is filed, and
 - (iv) review the operation of the nursing home;
- (e) attempt to mediate and resolve any dispute between a resident and the licensee;
- (f) attend meetings of the residents' council and report on its activities to the residents' council;
- (g) report to the Minister any concerns and recommendations that in its opinion or in the opinion of the residents' council ought to be brought to the Minister's attention; and
- (h) carry out any other functions prescribed by the regulations.

17f.—(1) The Minister, with the consent of a committee, may appoint a residents' council advisor to assist the committee in carrying out its responsibilities. Residents' council advisor

Idem

(2) In carrying out his or her duties, a residents' council advisor shall take instructions from and report to the committee.

Entry and inspection

(3) A residents' council advisor at any time may enter upon the premises of a nursing home for the purpose of meeting with a resident or a member of the residents' council or both and subject to subsection (4) the advisor, where instructed by the committee to make such an inspection, may enter upon the premises of the nursing home and is entitled to free access to all books of account, documents, bank accounts, vouchers, correspondence and records, including payroll records, records of staff hours worked, medical and drug records and any other records that are relevant for the purposes of the inspection or required to be kept under this Act or the regulations.

Consent of resident

(4) A residents' council advisor is not entitled to free access to a record that relates to a particular resident without the consent of that resident or, where the resident is unable to consent, of the legal representative of the resident.

Idem

(5) No person shall refuse entry to a nursing home to a residents' council advisor or obstruct a residents' council advisor or withhold or destroy, conceal or refuse to furnish any information or thing required by a residents' council advisor for the purpose of an inspection.

Licensee to co-operate

17g. The licensee shall co-operate with the residents' council, the committee and the residents' council advisor and shall provide the information, including financial information, and assistance to them provided for by the regulations.

Committee, etc., not personally liable

17h. No proceeding shall be commenced against a member of a committee or a residents' council advisor for any act done in accordance with section 17e or 17f, unless the act is done maliciously or without reasonable grounds.

16. Section 19 of the said Act is repealed and the following substituted therefor:

Liability of licensee

19.—(1) In addition to any other liability for an offence under this Act or the regulations, the licensee is guilty of an offence for the contravention of any provision of this Act except subsection 17a (1) or of the regulations that creates an obligation in respect of a nursing home,

(a) without imposing a duty on a specified person to carry it out; or

- (b) by imposing a duty on a specified person other than the licensee to carry it out.

(2) Notwithstanding subsection (1), a licensee is guilty of an offence under subsection (1) if the licensee contravenes subsection 17a (1). Idem

19a. Any person who contravenes any provision of this Act or the regulations, except subsection 12 (1), is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for each subsequent offence. Penalty

19b.—(1) Where a party to a proceeding under section 19 or 19a wishes to call as a witness in the proceeding a resident who by reason of age, infirmity or physical disability is unable to attend the proceeding, the party may apply to a provincial judge for an order appointing a justice of the peace to attend upon the witness and to take the evidence of the witness under oath. Evidence of disabled resident

(2) Where a party to a proceeding before the Board under this Act wishes to call as a witness in the proceeding a resident who by reason of age, infirmity or physical disability is unable to attend the proceeding, the members of the Board who are holding the hearing, at the request of the party, may attend upon the witness and take the evidence of the witness. Idem

(3) A medical report signed by a legally qualified medical practitioner stating that the practitioner believes the resident is unable to attend a proceeding by reason of age, infirmity or physical disability is *prima facie* proof of the inability of the witness to attend the proceeding. Medical report sufficient proof

(4) A person shall not take evidence from a resident under subsection (1) or (2) unless reasonable notice of the time for taking the evidence is given to all parties to the proceeding and each party attending is given an opportunity to examine or cross-examine the resident. Opportunity to examine

(5) A transcript of the evidence of a resident taken under subsection (1) and certified as correct by the person who recorded it may be read in evidence in a proceeding under this Act. Transcript as evidence

17.—(1) Clause 20 (j) of the said Act is amended by adding at the end thereof “and governing their form and content”.

(2) Section 20 of the said Act is amended by adding thereto the following clauses:

(ma) respecting the form and content of requests for proposals for the issuing of nursing home licenses;

.

(ta) designating services to be provided to residents by licensees for which no more than a prescribed amount may be charged and prescribing that amount;

(tb) prescribing matters to be included in a financial statement for the operation of a nursing home;

(tc) respecting the establishment and conduct of residents' councils;

(td) prescribing additional functions of a committee;

(te) respecting the information, financial information and assistance a licensee shall give to a residents' council, a committee and a residents' council advisor.

Commence-
ment

18. This Act comes into force on the day it receives Royal Assent.

Short title

19. The short title of this Act is the *Nursing Homes Amendment Act, 1986*.

Bill 177

An Act to amend the Health Facilities Special Orders Act, 1983

The Hon. M. Elston
Minister of Health

<i>1st Reading</i>	December 16th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

SECTION 1. Subsection 10 (4a) replaces subsection 11 (2) of the Act which is repealed in section 2. Subsection 11 (2) of the Act provides:

(2) Notice of a hearing under this Act shall afford the licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence.

The new subsection clarifies that a licensee should be given an opportunity to comply with lawful requirements in order to avoid proceedings, where it is just to do so. A similar change is made in Mr. Elston's bill amending the *Nursing Homes Act*.

SECTION 2. The proposed amendments to section 11 of the Act set out in this Bill would ensure that an agent of a residents' council can be a party to a proceeding concerning a nursing home under this Act and that residents and other affected persons may be given an opportunity to make submissions to the Board. Mr. Elston's bill amending the *Nursing Homes Act* has a similar provision.

SECTION 3. Self-explanatory. A similar provision with respect to residents of nursing homes is included in Mr. Elston's bill amending the *Nursing Homes Act*.

Bill 177

1986

**An Act to amend the
Health Facilities Special Orders Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 10 of the *Health Facilities Special Orders Act, 1983*, being chapter 43, is amended by adding thereto the following subsection:

(4a) Before the Board hears a matter it must be satisfied that the licensee has been given a reasonable opportunity to comply with all the lawful requirements for the retention of the licence where it would be just and reasonable to do so.

Opportunity
to comply

2.—(1) Subsection 11 (2) of the said Act is repealed and the following substituted therefor:

(2) Where the licensee holds a licence under the *Nursing Homes Act*, an agent for the residents' council of the nursing home established under that Act is also a party to proceedings before the Board under this Act and the Board may permit any person who is not a party before it, including a resident of the nursing home, a representative of a resident of the nursing home, an employee of the nursing home or any other person who may be affected by its decision to make written or oral submissions to the Board, and where it does so those submissions may be made either personally or through an agent.

Idem
R.S.O. 1980,
c. 320

(2) Subsection 11 (3) of the said Act is amended by inserting after "subsection (1)" in the first line "and a person who is permitted to make submissions to the Board under subsection (2)".

(3) Subsection 11 (6) of the said Act is amended by striking out "and heard the evidence and argument of the parties" in the third and fourth lines and inserting in lieu thereof "heard the evidence and argument of the parties and read or heard any written or oral submissions made under subsection (2)".

3. The said Act is amended by adding thereto the following section:

Evidence
of disabled
person

11a.—(1) Where a party to a proceeding under this Act wishes to call as a witness in the proceeding a person who by reason of age, infirmity or physical disability is unable to attend the proceeding, the members of the Board who are holding the hearing, at the request of the party, may attend upon the witness and take the evidence of the witness.

Medical
report
sufficient
proof

(2) A medical report signed by a legally qualified medical practitioner stating that the practitioner believes the witness is unable to attend a proceeding by reason of age, infirmity or physical disability is *prima facie* proof of the inability of the witness to attend the proceeding.

Opportunity
to examine

(3) A person shall not take evidence from a witness under subsection (1) unless reasonable notice of the time for taking the evidence is given to all parties to the proceeding and each party attending is given an opportunity to examine or cross-examine the witness.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Health Facilities Special Orders Amendment Act, 1986*.

Bill 178

An Act to amend the County of Oxford Act

The Hon. B. Grandmaître
Minister of Municipal Affairs

1st Reading December 16th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. Under the proposed subsection 10 (2a), the clerks of each area municipality will be required to file a certificate of qualification with the clerk of the County with respect to the persons who will represent the area municipality on the County Council.

SECTION 2. It is proposed that subsection 22 (4) of the Act be repealed. The said subsection relates to conflicts of interest. Conflicts of interest are now governed by the *Municipal Conflict of Interest Act, 1983*.

SECTION 3. This section would repeal section 73 of the Act to remove an obsolete provision. The *Juvenile Delinquents Act* (Canada) to which reference is made has been repealed.

SECTION 4. At present, the debentures to be redeemed on each anniversary of the date of the debentures are selected by lot by the treasurer of the County at a public meeting of the County Council. The proposed amendment will permit the County Council to prescribe the manner of making the selection by lot.

SECTION 5. The re-enactment of subsection 117 (4) changes a reference to the *Mortmain and Charitable Uses Act* to read as a reference to the *Charities Accounting Act*. The former Act has been repealed. Section 6c of the latter Act authorizes a municipal corporation to hold land for charitable purposes.

SECTIONS 6, 7 and 8. The proposed Part XII relates to the annexation of certain lands in the Township of Norfolk to the Town of Tillsonburg and *vice versa*. The annexations are provided for in an agreement that was negotiated by the Town, the Township, the County and The Regional Municipality of Haldimand-Norfolk.

Bill 178

1986

An Act to amend the County of Oxford Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 10 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2a) Where a person is elected or appointed to represent an area municipality as a member of the County Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the County the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the County has received such a certificate in respect of that person.

Certificates
of qualifi-
cation

2. Subsection 22 (4) of the said Act is repealed.

3. Section 73 of the said Act is repealed.

4. Clause 99 (c) of the said Act is amended by striking out "at a public meeting of the County Council" in the third and fourth lines and inserting in lieu thereof "in such manner as may be prescribed by by-law of the County Council".

5. Subsection 117 (4) of the said Act is repealed and the following substituted therefor:

(4) The County shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

Application
of
R.S.O. 1980,
c. 65

6. The said Act is amended by adding thereto the following Part:

PART XII

TILLSONBURG-NORFOLK ANNEXATIONS

Definitions

139. In this Part,

“area annexed to the Town” means the land annexed to the Town under clause 140 (a);

“area annexed to the Township” means the land annexed to the Township under clause 140 (b);

“Tillsonburg-Norfolk Annexation Agreement” means the agreement set out in the Tillsonburg-Norfolk Negotiating Committee *Recommendation for Agreement*, signed the 15th day of April, 1985, as amended and adopted by the Town, by by-law no. 2312 passed the 23rd day of September, 1985, by the Township, by by-law 873-85 passed the 9th day of September, 1985, by the County, by by-law 2600-85 passed the 25th day of September, 1985, and by The Regional Municipality of Haldimand-Norfolk, by by-law 143-85 passed the 26th day of September, 1985;

“Town” means The Corporation of the Town of Tillsonburg;

“Township” means The Corporation of the Township of Norfolk.

Annexations

140. On the day this Part comes into force,

- (a) the portion of the Township of Norfolk described in Schedule A is annexed to the Town; and
- (b) the portion of the Town of Tillsonburg described in Schedule B is annexed to the Township.

Application
of by-laws

141.—(1) Subject to subsections (2) and (3),

- (a) the by-laws of the County and of the Town extend to the area annexed to the Town; and
- (b) the by-laws of The Regional Municipality of Haldimand-Norfolk and of the Township extend to the area annexed to the Township.

Idem

(2) The following by-laws of The Regional Municipality of Haldimand-Norfolk and of the Township remain in force in the area annexed to the Town until amended or repealed by the County Council or by the council of the Town, as the case may be:

1. By-laws relating to highways.
2. By-laws passed under section 34 of the *Planning Act, 1983* or under any predecessor of that section. 1983, c. 1
3. By-law 87-75 of the Township.
4. By-laws that apply to any of the annexed lands that could not have been repealed by the Regional Council or the council of the Township.

(3) The by-laws of the County and of the Town passed under section 34 of the *Planning Act, 1983* or a predecessor of that section remain in force in the area annexed to the Township until amended or repealed by the council of The Regional Municipality of Haldimand-Norfolk or the Township, as the case may be. Idem

(4) Until amended or repealed by the council of The Regional Municipality of Haldimand-Norfolk, the provisions of the official plan of the County that pertain to the area annexed to the Township shall be deemed to be provisions of the official plan of the Haldimand-Norfolk Planning Area. Official plan

142.—(1) The Town, the Township, the County and The Regional Municipality of Haldimand-Norfolk and those negotiating on their behalf shall be deemed to have always had the power to negotiate and enter the Tillsonburg-Norfolk Annexation Agreement and the Town, the Township, the County and The Regional Municipality of Haldimand-Norfolk may implement the agreement in accordance with its terms. Power to enter and implement agreement

(2) Without restricting the generality of subsection (1), Idem

(a) all taxes, rates and charges levied by the Township with respect to the area annexed to the Town before the effective date of the annexation and uncollected as of that date shall be deemed to be owing to the Town and may be collected by the Town in the same manner and with the same remedies as taxes owing to the Town; and

(b) the Town shall be deemed to have been substituted for the Township with respect to loans made to or by the Township under section 3 of the *Housing Development Act* with respect to the area annexed to the Town. R.S.O. 1980, c. 209

(3) The Tillsonburg-Norfolk Annexation Agreement comes into effect on the day this Part comes into force. Effective date of agreement

7. The said Act is further amended by adding thereto the following Schedules:

SCHEDULE A

That portion of the Township of Norfolk described as follows is annexed to the Town of Tillsonburg:

COMMENCING at the intersection of the southerly boundary of the Town of Tillsonburg and the westerly limit of the King's Highway Number 19;

THENCE southerly along the westerly limit of the said King's Highway to intersect a line measured westerly at right angles from a point in the easterly limit of the said King's Highway distant 121.92 metres measured northerly therealong from the westerly limit of Lot 7 in Concession IV North of Talbot Road of the former Township of Middleton;

THENCE easterly along the said line to a point distant 60.96 metres from the easterly limit of the said King's Highway;

THENCE southerly and parallel with the easterly limit of the said King's Highway to the westerly limit of the said Lot 7;

THENCE southeasterly along the westerly limit of the said Lot 7 to a point distant 646.78 metres measured northwesterly therealong from the southerly angle of the said Lot 7;

THENCE northeasterly along a line measured at right angles from the westerly limit of the said Lot 7 to the westerly limit of Lot 8 in the said Concession IV;

THENCE southeasterly along the westerly limit of the said Lot 8 and the said westerly limit prolonged to the southeasterly limit of the road allowance between concessions III and IV North of Talbot Road;

THENCE northeasterly along the southeasterly limit of the said road allowance to the northerly angle of Lot 10 in Concession III North of Talbot Road;

THENCE northwesterly to and along the easterly limit of Lot 10 in Concession IV North of Talbot Road of the former Township of Middleton to an angle of the Town of Tillsonburg;

THENCE westerly along the southerly boundary of the said Town to the point of commencement.

SCHEDULE B

That portion of the Town of Tillsonburg described as follows is annexed to the Township of Norfolk:

COMMENCING at the intersection of the southerly boundary of the Town of Tillsonburg and the westerly limit of the King's Highway Number 19;

THENCE northerly along the westerly limit of the said King's Highway to the southerly limit of the right of way of the Canadian National Railways;

THENCE westerly along the southerly limit of the said right of way to the westerly limit of Lot 7 in Concession IV North of Talbot Road of the former Township of Middleton;

THENCE southeasterly along the westerly limit of the said Lot 7 to the southerly boundary of the Town of Tillsonburg;

THENCE easterly along the southerly boundary of the said Town to the point of commencement.

8. The assessment of land in the areas described in Schedules A and B to the *County of Oxford Act*, as enacted by section 7 of this Act, upon which taxes shall be levied in the year 1987 after section 7 comes into force shall be determined by the assessment commissioner and section 34 of the *Assessment Act* applies. Transition

9.—(1) This Act, except sections 6, 7 and 8, comes into force on the day it receives Royal Assent. Commencement

(2) Sections 6, 7 and 8 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

10. The short title of this Act is the *County of Oxford Amendment Act, 1986*. Short title

Bill 178

*(Chapter 9
Statutes of Ontario, 1987)*

An Act to amend the County of Oxford Act

The Hon. B. Grandmaître
Minister of Municipal Affairs

<i>1st Reading</i>	December 16th, 1986
<i>2nd Reading</i>	February 11th, 1987
<i>3rd Reading</i>	February 12th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 178

1987

An Act to amend the County of Oxford Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 10 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2a) Where a person is elected or appointed to represent an area municipality as a member of the County Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the County the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the County has received such a certificate in respect of that person.

Certificates
of qualifi-
cation

2. Subsection 22 (4) of the said Act is repealed.

3. Section 73 of the said Act is repealed.

4. Clause 99 (c) of the said Act is amended by striking out "at a public meeting of the County Council" in the third and fourth lines and inserting in lieu thereof "in such manner as may be prescribed by by-law of the County Council".

5. Subsection 117 (4) of the said Act is repealed and the following substituted therefor:

(4) The County shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

Application
of
R.S.O. 1980,
c. 65

6. The said Act is amended by adding thereto the following Part:

PART XII

TILLSONBURG-NORFOLK ANNEXATIONS

Definitions

139. In this Part,

“area annexed to the Town” means the land annexed to the Town under clause 140 (a);

“area annexed to the Township” means the land annexed to the Township under clause 140 (b);

“Tillsonburg-Norfolk Annexation Agreement” means the agreement set out in the Tillsonburg-Norfolk Negotiating Committee *Recommendation for Agreement*, signed the 15th day of April, 1985, as amended and adopted by the Town, by by-law no. 2312 passed the 23rd day of September, 1985, by the Township, by by-law 873-85 passed the 9th day of September, 1985, by the County, by by-law 2600-85 passed the 25th day of September, 1985, and by The Regional Municipality of Haldimand-Norfolk, by by-law 143-85 passed the 26th day of September, 1985;

“Town” means The Corporation of the Town of Tillsonburg;

“Township” means The Corporation of the Township of Norfolk.

Annexations

140. On the day this Part comes into force,

- (a) the portion of the Township of Norfolk described in Schedule A is annexed to the Town; and
- (b) the portion of the Town of Tillsonburg described in Schedule B is annexed to the Township.

Application
of by-laws

141.—(1) Subject to subsections (2) and (3),

- (a) the by-laws of the County and of the Town extend to the area annexed to the Town; and
- (b) the by-laws of The Regional Municipality of Haldimand-Norfolk and of the Township extend to the area annexed to the Township.

Idem

(2) The following by-laws of The Regional Municipality of Haldimand-Norfolk and of the Township remain in force in the area annexed to the Town until amended or repealed by the County Council or by the council of the Town, as the case may be:

1. By-laws relating to highways.
2. By-laws passed under section 34 of the *Planning Act, 1983* or under any predecessor of that section. 1983, c. 1
3. By-law 87-75 of the Township.
4. By-laws that apply to any of the annexed lands that could not have been repealed by the Regional Council or the council of the Township.

(3) The by-laws of the County and of the Town passed under section 34 of the *Planning Act, 1983* or a predecessor of that section remain in force in the area annexed to the Township until amended or repealed by the council of The Regional Municipality of Haldimand-Norfolk or the Township, as the case may be. Idem

(4) Until amended or repealed by the council of The Regional Municipality of Haldimand-Norfolk, the provisions of the official plan of the County that pertain to the area annexed to the Township shall be deemed to be provisions of the official plan of the Haldimand-Norfolk Planning Area. Official plan

142.—(1) The Town, the Township, the County and The Regional Municipality of Haldimand-Norfolk and those negotiating on their behalf shall be deemed to have always had the power to negotiate and enter the Tillsonburg-Norfolk Annexation Agreement and the Town, the Township, the County and The Regional Municipality of Haldimand-Norfolk may implement the agreement in accordance with its terms. Power to enter and implement agreement

(2) Without restricting the generality of subsection (1), Idem

- (a) all taxes, rates and charges levied by the Township with respect to the area annexed to the Town before the effective date of the annexation and uncollected as of that date shall be deemed to be owing to the Town and may be collected by the Town in the same manner and with the same remedies as taxes owing to the Town; and

- (b) the Town shall be deemed to have been substituted for the Township with respect to loans made to or by the Township under section 3 of the *Housing Development Act* with respect to the area annexed to the Town. R.S.O. 1980, c. 209

(3) The Tillsonburg-Norfolk Annexation Agreement comes into effect on the day this Part comes into force. Effective date of agreement

7. The said Act is further amended by adding thereto the following Schedules:

SCHEDULE A

That portion of the Township of Norfolk described as follows is annexed to the Town of Tillsonburg:

COMMENCING at the intersection of the southerly boundary of the Town of Tillsonburg and the westerly limit of the King's Highway Number 19;

THENCE southerly along the westerly limit of the said King's Highway to intersect a line measured westerly at right angles from a point in the easterly limit of the said King's Highway distant 121.92 metres measured northerly therealong from the westerly limit of Lot 7 in Concession IV North of Talbot Road of the former Township of Middleton;

THENCE easterly along the said line to a point distant 60.96 metres from the easterly limit of the said King's Highway;

THENCE southerly and parallel with the easterly limit of the said King's Highway to the westerly limit of the said Lot 7;

THENCE southeasterly along the westerly limit of the said Lot 7 to a point distant 646.78 metres measured northwesterly therealong from the southerly angle of the said Lot 7;

THENCE northeasterly along a line measured at right angles from the westerly limit of the said Lot 7 to the westerly limit of Lot 8 in the said Concession IV;

THENCE southeasterly along the westerly limit of the said Lot 8 and the said westerly limit prolonged to the southeasterly limit of the road allowance between concessions III and IV North of Talbot Road;

THENCE northeasterly along the southeasterly limit of the said road allowance to the northerly angle of Lot 10 in Concession III North of Talbot Road;

THENCE northwesterly to and along the easterly limit of Lot 10 in Concession IV North of Talbot Road of the former Township of Middleton to an angle of the Town of Tillsonburg;

THENCE westerly along the southerly boundary of the said Town to the point of commencement.

SCHEDULE B

That portion of the Town of Tillsonburg described as follows is annexed to the Township of Norfolk:

COMMENCING at the intersection of the southerly boundary of the Town of Tillsonburg and the westerly limit of the King's Highway Number 19;

THENCE northerly along the westerly limit of the said King's Highway to the southerly limit of the right of way of the Canadian National Railways;

THENCE westerly along the southerly limit of the said right of way to the westerly limit of Lot 7 in Concession IV North of Talbot Road of the former Township of Middleton;

THENCE southeasterly along the westerly limit of the said Lot 7 to the southerly boundary of the Town of Tillsonburg;

THENCE easterly along the southerly boundary of the said Town to the point of commencement.

8. The assessment of land in the areas described in Schedules A and B to the *County of Oxford Act*, as enacted by section 7 of this Act, upon which taxes shall be levied in the year 1987 after section 7 comes into force shall be determined by the assessment commissioner and section 34 of the *Assessment Act* applies. Transition

9.—(1) This Act, except sections 6, 7 and 8, comes into force on the day it receives Royal Assent. Commencement

(2) Sections 6, 7 and 8 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

10. The short title of this Act is the *County of Oxford Amendment Act, 1987*. Short title

Bill 179

An Act to amend the Municipal Act and certain other Acts related to Municipalities

The Hon. B. Grandmaître
Minister of Municipal Affairs

1st Reading December 16th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The re-enactment of paragraph 22 of section 1 deletes an obsolete reference to biennial elections. The repeal of paragraph 28 and the enactment of subsection (2) clarifies the meaning of the expression "unorganized territory".

SECTION 2. Under the proposed subsection 30 (9), a city council may designate its members of council, other than the mayor and members of the board of control, to be "councillors" rather than "aldermen". The other amendments to section 30 are complementary to the enactment of subsection 30 (9).

SECTION 3. The proposed re-enactment of section 48 clarifies that,

- (a) an order declaring vacant the seats of the members of a council or local board may be made sixty days after the last meeting at which a quorum was not present;
- (b) an order under this section must declare all of the seats vacant; and
- (c) the new election shall be held in accordance with section 92 of the *Municipal Elections Act*.

SECTIONS 4 and 5. The repeal of section 59 and the re-enactment of subsection 72 (2) will have the effect of consolidating and simplifying the provisions of the Act related to the appointment of an acting head of council.

SECTIONS 6 and 7. The repeal of subsection 77 (4) is complementary to the enactment of section 78a.

The proposed section 78a authorizes municipalities and local boards to transfer their documents to the Provincial Archivist.

The proposed section 78b provides for the receiving in evidence of documents of a municipality that are in the possession of the clerk or the Archivist.

SECTION 8. It is proposed that subsection 87 (2) of the Act be repealed. The said subsection provides that a by-law appointing a collector remains in force until repealed. The provision is considered to be unnecessary in light of sections 4 and 27 of the *Interpretation Act*.

SECTION 9. The re-enactment of subsection 98 (5) clarifies that costs may be awarded to a local board in proceedings in which the local board is represented by a lawyer who is a salaried officer of the local board or of a municipality acting on behalf of the local board.

SECTION 10. The re-enactment of subsection 100 (1) deletes the restriction on payments under section 100 whereby an allowance paid under the section cannot exceed three-fifths of the employee's average annual salary for the final three years of service. The repeal of subsection 100 (5) is complementary to the re-enactment of subsection 100 (1).

SECTION 11. The proposed subsection 117 (7) relates to pension plans established by special Acts of the Legislature. At present, under certain of these Acts, the approval of the Minister or of the Ministry is required before any by-law related to such a plan may be amended. It is proposed that this requirement be removed.

SECTION 12. The repeal of section 120 is complementary to the enactment of paragraph 58a of section 208, as set out in subsection 20 (3) of the Bill.

SECTION 13. The proposed amendment to subsection 126 (3) of the Act deletes unnecessary words.

SECTION 14. Section 127 of the Act relates to procedures to be followed by a county council before issuing debentures on behalf of a local municipality. The provision is considered to be unnecessary and it is proposed that it be repealed.

SECTION 15. The proposed re-enactment of subsection 132 (2) deletes numerous requirements related to the publishing of a synopsis of a proposed by-law that requires the assent of the electors.

SECTION 16. It is proposed that section 135 of the Act be repealed. The section relates to matters dealt with in the *Municipal Elections Act*.

SECTION 17. The proposed re-enactment of subsection 137 (2) deletes numerous requirements related to the publishing of a synopsis of a by-law that is being promulgated.

SECTION 18. The proposed amendment to subsection 148 (4) deletes unnecessary words.

SECTION 19. Section 151 of the Act is repealed. It imposes an unnecessary restriction on the borrowing powers of counties.

SECTION 20.—Subsection 1. It is proposed that the requirement for Ministry approval of pension by-laws be deleted.

Subsection 2. The purpose of the proposed re-enactments is to authorize municipalities and local boards to make payments on behalf of retired employees and their spouses and children with respect to life and medical insurance and on behalf of retired employees with respect to insurance under the *Health Insurance Act*.

Subsection 3. The re-enactment of paragraph 58 deletes a requirement for the approval by the Minister of agreements made under paragraph 58 of section 208.

The proposed paragraph 58a authorizes the council of any municipality to pass by-laws for establishing and carrying out the business of cold storage. At present, this power is restricted to city municipalities.

SECTION 21.—Subsection 1. The proposed paragraphs authorize local municipalities to pass by-laws related to the leashing of dogs and the removal of dog excrement.

Subsection 2. The repealed paragraph relates to matters dealt with in the *Health Protection and Promotion Act, 1983*.

Subsection 3. The re-enactment of clause (d) of paragraph 125 corrects an internal reference to subsection 321a (1) of the Act.

Subsection 4. Paragraph 136 of section 210 relates to the hauling of dead horses, offal, night soil and other offensive matter. The provision is considered to be archaic.

SECTION 22. The re-enactment of subsection 211 (17) and the repeal of subsection 211 (18) eliminates the requirement that by-laws related to the closing of retail gasoline service stations may only be repealed if more than one-third of the occupiers of the service stations are opposed to the continuance of the by-law.

SECTION 23.—Subsection 1. Paragraph 2 of section 225 authorizes county councils to pass by-laws related to booms on streams and rivers. The section is considered to be archaic.

Subsection 2. Clause (a) of paragraph 3 of section 225 is unnecessary as the assent of the electors is no longer required.

SECTION 24. The proposed amendments to section 225a will permit all upper tier municipalities, all cities and all separated towns and townships in counties and all local municipalities in unorganized territory to establish and operate gypsy moth control programs. At present, only counties have this power.

SECTION 25. The proposed re-enactment of section 253 authorizes municipalities to expend money to celebrate any event or matter of interest or importance. At present, such events or matters must be of national or international interest or importance.

SECTIONS 26 to 32. These amendments relate to county bridges and county roads. The principal purpose of the amendments is to delete the authority of county councils to erect bridges on highways that are not part of the county road system and to provide a mechanism whereby county councils, with the consent of the local municipality or municipalities, may transfer their jurisdiction over existing bridges that are not on the county road system back to the local municipality or municipalities that have jurisdiction over the highways on which the bridges are situate.

The repeal of section 274 deletes the requirement that a county must upgrade a township road immediately after the county assumes jurisdiction over the road.

SECTION 33. The proposed repeal of subsection 298 (6) deletes the requirement for a judge's approval of by-laws closing highways in townships in unorganized territory and in townships that are separated from the counties in which they are situate. The re-enactment of subsections 298 (3) and 298 (7) is complementary to the repeal of subsection 298 (6).

Under subsection 298 (12) by-laws related to roads must be registered in the land registry office if the roads are lands to which the *Registry Act* applies. The proposed re-enactment of this subsection will require the registration of such by-laws related to roads in areas to which the *Land Titles Act* applies. The proposed subsections 298 (13) and (14) provide that the registration requirement does not apply to such by-laws in the land registry system if they were passed before the enactment of the forerunner of the present subsection 298 (12) or to such by-laws in the land titles system if they were passed before the coming into force of the new subsection 298 (12).

The proposed subsection 298 (15) re-enacts the present subsection 316 (4).

SECTION 34. The proposed section 309a authorizes all municipalities to construct noise abatement works on the untravelled portion of any highway. All municipalities will be able to undertake such works as a local improvement work.

SECTION 35. The proposed re-enactment of section 316 incorporates and revises the provisions now found in section 57 of the *Surveys Act* related to the closing and sale of highways on plans of subdivision.

SECTION 36. The proposed amendment to section 325 deletes unnecessary words.

SECTION 37.—Subsection 1. Noise abatement works are added to the list of works that may be undertaken as a local improvement work.

Subsection 2. The proposed amendment authorizes a municipality to pay part of the cost of noise abatement works constructed as a local improvement.

Subsections 3 and 4. The proposed amendment authorizes the municipality to assess owners other than those whose land abuts directly on noise abatement works for a share of the cost of the works.

Subsection 5. The amendment provides for the assessment of owners whose lots front or abut on noise abatement works for all or part of the costs of the works.

SECTION 38.—Subsection 1. See note for sections 39, 40 and 41.

Subsection 2. The amendment to section 92 of the *Municipal Elections Act* is complementary to the re-enactment of section 48 of the *Municipal Act* set out in the Bill.

SECTIONS 39, 40 and 41. The amendments are complementary to the enactment of subsection 30 (9) of the *Municipal Act*, as set out in section 2 of the Bill. The amendments recognize that area municipalities will be able to designate "aldermen" as "councillors".

SECTION 42. The repeal of subsections 57 (2) to (9) of the *Surveys Act* is complementary to the re-enactment of section 316 of the *Municipal Act* set out in the Bill.

Bill 179

1986

**An Act to amend the Municipal Act and
certain other Acts related to Municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

AMENDMENTS TO THE *MUNICIPAL ACT*

1.—(1) Paragraph 22 of section 1 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

22. “regular election” means an election required to be held under section 10 of the *Municipal Elections Act*. R.S.O. 1980,
c. 308

(2) Paragraph 28 of the said section 1 is repealed.

(3) Section 1 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 19, section 4 and 1982, chapter 50, section 1, is further amended by adding thereto the following subsection:

- (2) For the purposes of this Act, a local municipality is in unorganized territory if it is in a territorial district mentioned in the *Territorial Division Act* and if it is not in The District of Muskoka or The Regional Municipality of Sudbury. Unorganized
territory

R.S.O. 1980,
c. 497

2.—(1) Subsections 30 (1) and (2) of the said Act are repealed and the following substituted therefor:

- (1) The council of a city shall be composed of a mayor, the members of the board of control if the city has such a board, and the following number of other members of council: City councils

- (a) three members for each ward; or

- (b) where the council by by-law so provides, two members for each ward; or
- (c) in the case of a city having a population of not more than 15,000, where the council by by-law so provides, one member for every 1,000 of the population up to but not exceeding the maximum number provided by by-law.

By-law for
election by
general vote

(2) In the case provided for by clause (1) (c), or where the council of a city having a population of more than 15,000 by by-law so provides, the members of council to be elected under that clause shall be elected by general vote, and in the latter case the number of members shall be the same as if they were elected by wards.

(2) Section 30 of the said Act is amended by adding thereto the following subsections:

"Alderman"

(8) The members of the council of a city, other than the mayor and members of the board of control, shall have the title "alderman".

"Councillor"

(9) Notwithstanding subsection (8) or any other Act, the council of a city may by by-law change the title "alderman" to "councillor" or *vice versa*.

Idem

(10) A by-law to change the title "alderman" to "councillor" or *vice versa* passed after the 30th day of June in the year of a regular election and before the 1st day of December in that year is of no effect.

Idem

(11) Not more than one by-law shall be passed during the term of a council to change the title of members of the council.

Idem

(12) Subsection (8) does not apply to the office of metropolitan councillor in the City of Toronto.

Idem

(13) Subsections (9) to (11) apply with necessary modifications to the change of the title "city alderman" to "city councillor" in the City of Toronto and *vice versa*.

3. Section 48 of the said Act is repealed and the following substituted therefor:

Declaration
that all
seats vacant

48.—(1) If, because of a failure to obtain a quorum, the council of a municipality or a local board thereof is unable to hold a meeting, or a subsequent meeting within sixty days of the meeting that was not held, the Minister may by order

declare all the seats of the members of the council or local board, as the case may be, to be vacant and a new election shall be held in accordance with section 92 of the *Municipal Elections Act*.

R.S.O. 1980,
c. 308

(2) If the Minister makes an order under subsection (1) or the seats of a majority of the members of a council or of a local board are for any reason declared vacant, the Minister may by order provide for the fulfilling of the duties and obligations of the council or local board until such time as a new election is held in accordance with section 92 of the *Municipal Elections Act*, and the members so elected have taken office.

Interim
adminis-
tration

4. Section 59 of the said Act is repealed.

5. Subsection 72 (2) of the said Act is repealed and the following substituted therefor:

(2) When the head of council is absent or refuses to act, or the office is vacant, the council may by resolution appoint one of its members to act in the place and stead of the head of council and while so acting, the member has and may exercise all the rights, powers and authority of the head of council.

Acting head

6. Subsection 77 (4) of the said Act is repealed.

7. The said Act is amended by adding thereto the following sections:

78a.—(1) Notwithstanding subsection 77 (1), the Archivist of Ontario and a municipal council may agree that any document of the municipality may be transferred to and kept by the Archivist.

Transfer of
documents to
Archivist

(2) The Archivist of Ontario and a local board, as defined in the *Municipal Affairs Act*, may agree that any document of the local board may be transferred to and kept by the Archivist.

Idem
R.S.O. 1980,
c. 303

(3) Where a council or local board agrees under subsection (1) or (2) to transfer the original of a by-law that, at the time of the transfer, is still in force or the operation of which is not spent, the clerk shall obtain and keep, until such time as the by-law is no longer in force or is spent, a photographic copy of the by-law.

Copies of
certain
by-laws to
be kept

(4) In this section and section 78b, “document” includes originals of by-laws, resolutions, books, records, accounts and papers of any nature.

Definition

Certified
copies of
documents
receivable
in evidence

78b.—(1) A copy of any document in the possession or under the control of the clerk of a municipality purporting to be certified by the clerk and under the seal of the corporation may be filed and used in any court or tribunal in lieu of the original and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court or tribunal otherwise directs.

Idem

(2) A copy of any document kept by the Archivist under subsection 78a (1) or (2) and certified by the Archivist may be filed and used in any court or tribunal in lieu of the original and shall be received in evidence without proof of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court or tribunal otherwise directs.

8. Subsection 87 (2) of the said Act is repealed.

9. Subsection 98 (5) of the said Act is repealed and the following substituted therefor:

Costs in
legal
proceedings
R.S.O. 1980,
c. 303

(5) Notwithstanding any other Act, in any proceeding to which a municipality or local board, as defined in the *Municipal Affairs Act*, is a party, costs adjudged to the municipality or local board shall not be disallowed or reduced merely because the solicitor or the counsel who earned the costs, or in respect of whose services the costs are charged, was a salaried officer of the municipality or local board or of a municipality acting on behalf of the local board performing the services in the discharge of the solicitor's or counsel's duty and remunerated therefor by a salary, and for that or any other reason was not entitled to recover any costs from the municipality or local board in respect of the services rendered, and,

- (a) the costs recovered by or on behalf of the municipality shall form part of the general funds of the municipality; and
- (b) the costs recovered by or on behalf of the local board shall form part of the general funds of the local board.

10.—(1) Subsection 100 (1) of the said Act is repealed and the following substituted therefor:

Retirement
allowance

(1) A council may grant an annual retirement allowance, payable weekly, monthly or otherwise, to an employee, during the employee's life, who has had continuous service for at least twenty years with the municipality or with the municipal-

ity and any other municipality or local board as defined in the *Municipal Affairs Act* or any two or more of them and who,

R.S.O. 1980,
c. 303

(a) is retired because of age; or

(b) while in the service of any municipality or local board has become incapable of working through illness or otherwise.

(2) Subsection 100 (5) of the said Act is repealed.

11. Section 117 of the said Act is amended by adding thereto the following subsection:

(7) Notwithstanding any special Act, the approval of the Minister or Ministry is not required to amend any by-law of a municipality related to an approved pension plan.

By-laws
under
special Acts,
approval not
required

12. Section 120 of the said Act is repealed.

13. Subsection 126 (3) of the said Act is amended by striking out "without the assent of the electors" in the third and fourth lines.

14. Section 127 of the said Act is repealed.

15. Subsection 132 (2) of the said Act is repealed and the following substituted therefor:

(2) Instead of publishing a copy of the proposed by-law, the council may publish a synopsis of it.

Synopsis

16. Section 135 of the said Act is repealed.

17. Subsection 137 (2) of the said Act is repealed and the following substituted therefor:

(2) Instead of publishing a true copy of the by-law, the council may publish a synopsis of it.

Synopsis

18. Subsection 148 (4) of the said Act is amended by striking out "without the assent of the electors but" in the sixth line.

19. Section 151 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 16, is repealed.

20.—(1) Clause (b) of paragraph 46 of section 208 of the said Act is repealed.

(2) Paragraphs 48 and 49 of the said section 208 are repealed and the following substituted therefor:

Insurance,
hospitali-
zation,
etc.

R.S.O. 1980,
cc. 197, 218,
388

48. Subject to the *Health Insurance Act*, for providing by contract either with an insurer licensed under the *Insurance Act* or with an association registered under the *Prepaid Hospital and Medical Services Act*,

- i. group life insurance for employees or retired employees or any class or classes thereof,
- ii. group accident insurance or group sickness insurance for employees or retired employees or any class or classes thereof and their spouses and children, and
- iii. hospital, medical, surgical, nursing or dental services or payment therefor for employees or retired employees or any class or classes thereof and their spouses and children,

and for paying the whole or part of the cost thereof.

(a) In this paragraph,

- (i) "employee" means an employee as defined in paragraph 46, and
- (ii) "retired employee" means a person who was formerly a salaried officer, clerk, worker, servant or other person in the employ of the municipality or of a local board and includes a former member of the police force of the municipality and any person or class of person designated as an employee by the Minister.

(b) Any local board may provide insurance and hospital, medical, surgical, nursing or dental services and payment therefor in the same manner and for the same classes of persons as the council of a municipality, and the provisions of this paragraph apply with necessary modifications thereto.

Contributions
to plans
under
R.S.O. 1980,
c. 197

49. For paying the whole or part of the cost to employees or retired employees of the plan of hospital care insurance or of health services insurance provided for under the *Health Insurance Act*.

(a) In this paragraph, "employee" means an employee as defined in paragraph 46 and "retired employee"

means a retired employee as defined in subclause (a) (ii) of paragraph 48.

- (b) Any local board may contribute toward the cost to employees or retired employees of the plan of hospital care insurance or of health services insurance provided for under the *Health Insurance Act* and the provisions of this paragraph apply with necessary modifications thereto.

(3) Paragraph 58 of the said section 208 is repealed and the following substituted therefor:

58. For entering into any agreement with Her Majesty in right of Ontario respecting regional economic development and any ancillary or subsidiary agreements with any person required as a result of entering into such an agreement with Her Majesty.

Regional
economic
development
agreements

58a. For establishing and carrying on the business of cold storage in connection with or upon the market property of the corporation.

Cold storage
business

21.—(1) Section 210 of the said Act is amended by adding thereto the following paragraphs:

6a. For requiring, within any defined area or areas of the municipality, any person who owns or harbours a dog to keep the dog leashed and under the control of some person when the dog is on any land of the municipality or of any local board thereof.

Leashing
of dogs

6b. For requiring any person who owns or harbours a dog to remove forthwith excrement left by the dog anywhere in the municipality and for excluding from the operation of the by-law such class or classes of physically handicapped persons as may be set out in the by-law.

Dog waste

(2) Paragraph 71 of the said section 210 is repealed.

(3) Clause (d) of paragraph 125 of the said section 210, as amended by the Statutes of Ontario, 1982, chapter 24, section 10, is repealed and the following substituted therefor:

- (d) Notwithstanding subsection 321a (1) and subject to clause (f), the driver or owner of a motor vehicle parked or left on private property is not liable to any penalty or to have the motor vehicle removed from such property or impounded under a by-law passed under this paragraph except upon the writ-

ten complaint of the owner or occupant of the property given to a constable or officer appointed for the carrying out of the provisions of the by-law.

(4) Paragraph 136 of the said section 210 is repealed.

22. Subsections 211 (17) and (18) of the said Act are repealed and the following substituted therefor:

Repeal of
by-law

(17) A council may amend or repeal any by-law passed under any predecessor of this section, whether or not the by-law was required to be passed upon the application of any number of occupiers of shops in the municipality.

23.—(1) Paragraph 2 of section 225 of the said Act is repealed.

(2) Clause (a) of paragraph 3 of the said section 225 is repealed.

24.—(1) Subsection 225a (1) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 14, section 1, is repealed and the following substituted therefor:

Definition

(1) In this section, "municipality" means,

- (a) a county or a city or other local municipality within a county that has been separated from the county for municipal purposes;
- (b) a local municipality in unorganized territory;
- (c) a metropolitan, regional or district municipality or the County of Oxford.

Gypsy moth
control
programs

(1a) By-laws may be passed by the councils of municipalities for establishing and operating aerial spraying programs to control actual or potential infestations of gypsy moths.

(2) Subsections 225a (3), (5) and (6) of the said Act are amended by striking out "county" and "county's" wherever those words occur and inserting in lieu thereof in each instance "municipality" and "municipality's", as the case may be.

25. Section 253 of the said Act is repealed and the following substituted therefor:

Expenses for
entertaining
guests

253. Notwithstanding the provisions of any general or special Act, the council of any municipality may expend in any year such sum as it may determine for the reception or

entertainment of persons of distinction or the celebration of events or matters that the council considers to be of interest or importance.

26. Section 261 of the said Act is repealed and the following substituted therefor:

261.—(1) The council of a county has jurisdiction over every highway and boundary line assumed by the council and every bridge thereon.

Jurisdiction
of county
council over
highways

(2) Where the council of a county has jurisdiction over a highway, the council of the county, at the expense of the county, shall cause to be erected and maintained or rebuilt or replaced and maintained the bridges on the highway.

Duty with
respect to
bridges

(3) Subject to a by-law passed under subsection 278 (1), the council of a county continues on and after the day this section comes into force,

Continued
jurisdiction
over certain
bridges

(a) to have jurisdiction over all bridges over which it had jurisdiction immediately before this section comes into force;

(b) to have joint jurisdiction over all bridges over which it had joint jurisdiction immediately before this section comes into force,

and the council of the county, at the expense of the county or at the joint expense of the municipalities, as the case may be, shall cause every such bridge to be rebuilt or replaced and maintained.

27. Section 262 of the said Act is amended by inserting after “is” in the first line “to maintain or”.

28. Section 263 of the said Act is amended by inserting after “is” in the first line “to maintain or”.

29. Section 266 of the said Act is repealed.

30.—(1) Subsection 270 (1) of the said Act is repealed and the following substituted therefor:

(1) The council of a county may by by-law assume as a county road any highway within a town, not being a separated town, or within a village or township.

Assumption
by
county
councils
of highways

(2) Subsection 270 (7) of the said Act is repealed and the following substituted therefor:

Effect of
repeal

(7) When a by-law passed under this section is repealed, the highway and the bridges thereon cease to be under the jurisdiction of the council of the county and falls and is under the jurisdiction of the council or councils that had jurisdiction over it at the time of the passing of the by-law for assuming it.

31. Sections 273, 274 and 275 of the said Act are repealed.

32. Sections 276, 277 and 278 of the said Act are repealed and the following substituted therefor:

Bridges on
highways
under
different
jurisdictions

276.—(1) Where a bridge joins or is to join a highway under the jurisdiction of one municipal corporation to a highway under the jurisdiction of another municipal corporation, it is the duty of the municipal corporations whose highways are joined or to be joined to maintain or erect and maintain the bridge.

Bridges on
boundary
lines

(2) Where a bridge forms part of a boundary line, it is the duty of the municipal corporations that are responsible for maintaining the boundary line to maintain or to erect and maintain all necessary bridges on the boundary line.

Maintenance
of boundary
lines

277.—(1) Boundary lines between local municipalities, including those that also form county boundary lines, shall be maintained by the corporations of such municipalities.

Exceptions

(2) Subsection (1) does not apply to boundary lines assumed by the council of the county or to such bridges as are under this Act to be maintained or erected and maintained by another corporation.

Local
municipalities
to erect and
maintain
certain
bridges

278.—(1) Where a bridge that is not on a county road or that is not on a boundary line assumed by the county is under the exclusive or joint jurisdiction of the council of a county, the council of the county may transfer by by-law its jurisdiction and control over the bridge to the council or councils of the local municipality or local municipalities in the county that has or have jurisdiction over the highway or boundary line on which the bridge is situate and the transfer may be made on such terms and conditions as the councils may agree upon.

Approval

(2) A by-law passed under subsection (1) does not take effect until it is approved by a by-law of the local municipality or the local municipalities to which the jurisdiction and control over the bridge is being transferred.

Effect of
transfer

(3) On the day that a transfer under subsection (1) takes effect, all rights, liabilities and obligations of the county in respect of the bridge are transferred to and are vested in and

imposed upon the local municipality or, where the jurisdiction is transferred to the council of more than one local municipality, the local municipalities, jointly.

33.—(1) Subsection 298 (3) of the said Act is repealed and the following substituted therefor:

(3) A by-law passed under clause (1) (b) for altering or diverting any highway or part of a highway or under clause (1) (c) or (d) in respect of an allowance for road reserved in the original survey,

Minister's
approval

(a) along the bank of any river, stream or other water;

(b) along or on the shore of any lake or other water;

(c) leading to the bank of any river or stream; or

(d) leading to the shore of any lake or other water,

does not take effect until it has been approved by the Minister and, where the by-law is one to which subsection (7) applies, it shall not be submitted to the Minister until it has been passed in compliance with subsection (8) or (9), but the approval of the Minister is not required for a by-law for leasing a stopped-up highway or part of a highway to an owner of land that abuts on it for a period not in excess of thirty years.

(2) Subsections 298 (6) and (7) of the said Act are repealed and the following substituted therefor:

(7) Where the council of a township that forms part of a county for municipal purposes intends to pass a by-law under clause (1) (c), it shall so notify in writing the clerk of the county by registered mail or by personal service.

Notice to
clerk of
county

(3) Subsection 298 (12) of the said Act is repealed and the following substituted therefor:

(12) A by-law passed under subsection (1), or any predecessor of subsection (1), for closing any street, road or highway or for opening upon any private property, any street, road or highway does not take effect until it has been registered in the land registry office of the land titles division or registry division in which the land is situate, and the by-law shall be registered without further proof by depositing a copy certified under the hand of the clerk and the seal of the municipality.

Registration
of by-laws

Exception

(13) Subsection (12) does not apply, and shall be deemed never to have applied, so as to require the registration of a by-law passed before the 29th day of March, 1873.

Idem

(14) Subsection (12) does not apply so as to require the registration of a by-law passed before the day this subsection comes into force in respect of land registered under the *Land Titles Act*.

R.S.O. 1980,
c. 230

Moneys to
be paid into
special
account

(15) All moneys received by the municipality from the selling or leasing of a stopped-up highway or part of a highway, the stopping-up of which is subject to the approval of the Minister under subsection (3), less any amount expended by the municipality out of its general funds for the purpose of stopping-up and selling or leasing the highway or part thereof, shall be paid into a special account and the provisions of subsection 50 (12) of the *Planning Act, 1983* apply to such account and the moneys therein.

1983, c. 1

34. The said Act is further amended by adding thereto the following section:

Noise
abatement
works

309a.—(1) By-laws may be passed by the council of every municipality for constructing noise abatement works on the untravelled portion of any highway.

Definition

(2) For the purposes of subsection (1), “municipality” includes a metropolitan, regional and district municipality and the County of Oxford.

Application
of
R.S.O. 1980,
c. 250

(3) The *Local Improvement Act* applies to a county, metropolitan, regional and district municipality and the County of Oxford for the purpose of constructing noise abatement works as if each of them were a municipality as defined in that Act.

Special
assessment
and
collection of
special
assessments

(4) If a municipality described in subsection (3) (herein referred to as an upper tier municipality) proceeds under the *Local Improvement Act*, a local municipality shall provide all information requested by the upper tier municipality for the purpose of the preparation of the special assessment rolls, and the clerk of the upper tier municipality, after certifying the special assessment rolls, shall forward the same to the treasurer of the local municipality concerned who shall enter the special assessments on the collector's roll and collect the same in the same manner as taxes and remit the same with the penalties, if any, to the treasurer of the upper tier municipality.

35. Section 316 of the said Act is repealed and the following substituted therefor:

316.—(1) Subject to sections 317 and 318, where a highway or any part of a highway over which a municipality has jurisdiction has been closed under this Act, the *Registry Act* or the *Land Titles Act* and the council of the municipality determines to sell the land forming the highway or the part of the highway so closed, the land shall be sold in accordance with this section.

Sale of
closed
highway
R.S.O. 1980,
cc. 445, 230

(2) The council shall by by-law set the sale price of the land to be sold and shall offer to sell it to the owner of the land abutting the land to be sold and where,

Sale to
abutting
owners

- (a) there are parcels of land abutting on opposite sides of the land to be sold, the owner of each parcel has the right of first refusal to purchase the land to its middle line;
- (b) the land to be sold is abutted on one side by a highway that has not been closed or by a stream, river or other body of water over which the public has rights of navigation or of floating timber, the owner whose land abuts the land to be sold on the other side has the right of first refusal to purchase the land;
- (c) the land to be sold does not include the whole width of the former highway, the owner whose land abuts on the land to be sold has the right of first refusal to purchase the land.

(3) If a person entitled under subsection (2) to purchase the land does not exercise the right to purchase within such period as may be fixed by by-law, the municipality may sell the land that the person had the right to purchase to any other person at the price set under subsection (2) or at a greater price.

Sale to
other persons

(4) Where the municipality is unable to sell the land at or above the sale price set under subsection (2), the council may set a lower price under that subsection and this section applies to a sale at the lower price.

Sale at
lower price

(5) Where land is sold to an abutting owner under this section, the sidelines of the parcels abutting the land to be sold shall be extended to include the land to be sold in such manner as the council considers fair and reasonable.

Sidelines

(6) A municipality shall not use the power conferred by this section to sell land that is covered with water.

Limitation

36. Section 325 of the said Act is amended by striking out “without obtaining the assent of the electors” in the eleventh and twelfth lines.

PART II

AMENDMENTS TO OTHER ACTS

37.—(1) Subsection 2 (1) of the *Local Improvement Act*, being chapter 250 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (s) constructing noise abatement works on the untravelled portion of a street.

(2) Subsection 27 (1) of the said Act is repealed and the following substituted therefor:

Corporation
may assume
part of cost
of certain
works

(1) Subject to subsection (3), the council of the corporation of a municipality in which there is not in force a by-law passed under section 70 applicable to the work may, by by-law passed at a general or special meeting by a vote of three-fourths of all the members of the council, provide that such part as the council considers proper of the cost of any of the following works constructed as a local improvement that otherwise would be chargeable upon the land abutting directly on the work shall be paid by the corporation:

1. Any granolithic, stone, cement, asphalt or brick sidewalk.
2. Any pavement or curbing.
3. Any works, plant, appliances and equipment for street lighting.
4. Any noise abatement works.

(3) Subsection 31 (1) of the said Act is amended by inserting after “watermain” in the second line “or noise abatement works”.

(4) Subsection 32 (1) of the said Act is amended by striking out “or (r)” in the eighth line and inserting in lieu thereof “(r) or (s)”.

(5) Subsection 68 (2) of the said Act is amended by inserting after “pavement” in the second line “noise abatement works”.

38.—(1) Subsection 44 (3) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “or councillor”.

(2) Subsection 92 (1) of the said Act is amended by striking out “or” at the end of clause (b), by inserting “or” at the end of clause (c) and by adding thereto the following clause:

- (d) the Minister makes an order under section 48 of the *Municipal Act*.

R.S.O. 1980,
c. 302

39.—(1) Subclause 5 (2) (a) (iii) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “aldermen” in the fifth line and inserting in lieu thereof “other members of council”.

(2) Clause 5 (2) (b) of the said Act is amended by striking out “aldermen” in the second line and inserting in lieu thereof “other members of council”.

(3) Subsection 5 (4) of the said Act is amended by striking out “alderman, or aldermen” in the third and fourth lines and inserting in lieu thereof “other member or members of council”.

(4) Clause 152 (1) (c) of the said Act is repealed and the following substituted therefor:

- (c) the following number of other members of council:

- (i) if elected by general vote, not fewer than four members, or
- (ii) if elected by wards and the area municipality has four or more wards, one, two or three members for each ward, or, if the area municipality has fewer than four wards, two or three members for each ward.

(5) Subsection 152 (2) of the said Act is repealed and the following substituted therefor:

(2) The Borough of East York shall be deemed to be a city municipality for the purposes of subsections 30 (8), (9), (10) and (11) and section 68 of the *Municipal Act*.

Borough of
East York,
use of
designation
councillor;
board of
control
R.S.O. 1980,
c. 302

(6) The definition of “city alderman” in subsection 152a (1) of the said Act, as enacted by the Statutes of Ontario, 1985,

chapter 2, section 4, is repealed and the following substituted therefor:

“city alderman or councillor” means a person described in clause (2) (b).

(7) Subsection 152a (4) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4, is amended by adding at the end thereof “or councillors”.

(8) Subsection 152a (6) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4, is amended by inserting after “aldermen” in the fourth line “or councillors”.

(9) Subsection 152a (7) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4, is amended by inserting after “alderman” in the third line “or councillor”.

40. Subsection 3 (1) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Composition
of councils

(1) The council of each area municipality shall be composed of a mayor, who shall be elected by general vote and shall be the head of the council, and the following number of other members of council:

1. Town of Lincoln—eight members elected by wards.
2. Town of Fort Erie—eight members elected by wards.
3. Town of Grimsby—eight members elected by general vote.
4. City of Niagara Falls—twelve members elected by wards.
5. Town of Niagara-on-the-Lake—eight members elected by general vote.
6. Town of Pelham—six members elected by wards.
7. City of Port Colborne—eight members elected by wards.
8. City of St. Catharines—twelve members elected by wards.

9. City of Thorold—ten members elected by general vote.
10. Township of Wainfleet—four members elected by general vote.
11. City of Welland—twelve members elected by wards.
12. Township of West Lincoln—six members elected by wards.

(1a) Subsections 30 (8), (9), (10) and (11) of the *Municipal Act* apply to an area municipality which is a town or township as if it were a city municipality.

Application
of
R.S.O. 1980,
c. 302

41.—(1) Paragraph 1 of subsection 3 (1) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “aldermen” in the first line and inserting in lieu thereof “members”.

(2) Clause 6 (b) of the said Act is repealed and the following substituted therefor:

- (b) the council of the City of Sudbury so long as the total number of members of council, excluding the mayor, does not exceed nine.

42. Subsections 57 (2) to (9) of the *Surveys Act*, being chapter 493 of the Revised Statutes of Ontario, 1980, are repealed.

43. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

44. The short title of this Act is the *Municipal Statute Law Amendment Act, 1986*.

Short title

Bill 179

*(Chapter 10
Statutes of Ontario, 1987)*

An Act to amend the Municipal Act and certain other Acts related to Municipalities

The Hon. B. Grandmaître
Minister of Municipal Affairs

<i>1st Reading</i>	December 16th, 1986
<i>2nd Reading</i>	February 11th, 1987
<i>3rd Reading</i>	February 12th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 179

1987

**An Act to amend the Municipal Act and
certain other Acts related to Municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

AMENDMENTS TO THE *MUNICIPAL ACT*

1.—(1) Paragraph 22 of section 1 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

22. “regular election” means an election required to be held under section 10 of the *Municipal Elections Act*. R.S.O. 1980,
c. 308

(2) Paragraph 28 of the said section 1 is repealed.

(3) Section 1 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 19, section 4 and 1982, chapter 50, section 1, is further amended by adding thereto the following subsection:

- (2) For the purposes of this Act, a local municipality is in unorganized territory if it is in a territorial district mentioned in the *Territorial Division Act* and if it is not in The District of Muskoka or The Regional Municipality of Sudbury. Unorganized
territory
R.S.O. 1980,
c. 497

2.—(1) Subsections 30 (1) and (2) of the said Act are repealed and the following substituted therefor:

- (1) The council of a city shall be composed of a mayor, the members of the board of control if the city has such a board, and the following number of other members of council: City councils

- (a) three members for each ward; or

- (b) where the council by by-law so provides, two members for each ward; or
- (c) in the case of a city having a population of not more than 15,000, where the council by by-law so provides, one member for every 1,000 of the population up to but not exceeding the maximum number provided by by-law.

By-law for
election by
general vote

(2) In the case provided for by clause (1) (c), or where the council of a city having a population of more than 15,000 by by-law so provides, the members of council to be elected under that clause shall be elected by general vote, and in the latter case the number of members shall be the same as if they were elected by wards.

(2) Section 30 of the said Act is amended by adding thereto the following subsections:

"Alderman"

(8) The members of the council of a city, other than the mayor and members of the board of control, shall have the title "alderman".

"Councillor"

(9) Notwithstanding subsection (8) or any other Act, the council of a city may by by-law change the title "alderman" to "councillor" or *vice versa*.

Idem

(10) A by-law to change the title "alderman" to "councillor" or *vice versa* passed after the 30th day of June in the year of a regular election and before the 1st day of December in that year is of no effect.

Idem

(11) Not more than one by-law shall be passed during the term of a council to change the title of members of the council.

Idem

(12) Subsection (8) does not apply to the office of metropolitan councillor in the City of Toronto.

Idem

(13) Subsections (9) to (11) apply with necessary modifications to the change of the title "city alderman" to "city councillor" in the City of Toronto and *vice versa*.

3. Section 48 of the said Act is repealed and the following substituted therefor:

Declaration
that all
seats vacant

48.—(1) If, because of a failure to obtain a quorum, the council of a municipality or a local board thereof is unable to hold a meeting, or a subsequent meeting within sixty days of the meeting that was not held, the Minister may by order

declare all the seats of the members of the council or local board, as the case may be, to be vacant and a new election shall be held in accordance with section 92 of the *Municipal Elections Act*. R.S.O. 1980,
c. 308

(2) If the Minister makes an order under subsection (1) or the seats of a majority of the members of a council or of a local board are for any reason declared vacant, the Minister may by order provide for the fulfilling of the duties and obligations of the council or local board until such time as a new election is held in accordance with section 92 of the *Municipal Elections Act*, and the members so elected have taken office. Interim
adminis-
tration

4. Section 59 of the said Act is repealed.

5. Subsection 72 (2) of the said Act is repealed and the following substituted therefor:

(2) When the head of council is absent or refuses to act, or the office is vacant, the council may by resolution appoint one of its members to act in the place and stead of the head of council and while so acting, the member has and may exercise all the rights, powers and authority of the head of council. Acting head

6. Subsection 77 (4) of the said Act is repealed.

7. The said Act is amended by adding thereto the following sections:

78a.—(1) Notwithstanding subsection 77 (1), the Archivist of Ontario and a municipal council may agree that any document of the municipality may be transferred to and kept by the Archivist. Transfer of
documents to
Archivist

(2) The Archivist of Ontario and a local board, as defined in the *Municipal Affairs Act*, may agree that any document of the local board may be transferred to and kept by the Archivist. Idem
R.S.O. 1980,
c. 303

(3) Where a council or local board agrees under subsection (1) or (2) to transfer the original of a by-law that, at the time of the transfer, is still in force or the operation of which is not spent, the clerk shall obtain and keep, until such time as the by-law is no longer in force or is spent, a photographic copy of the by-law. Copies of
certain
by-laws to
be kept

(4) In this section and section 78b, “document” includes originals of by-laws, resolutions, books, records, accounts and papers of any nature. Definition

Certified
copies of
documents
receivable
in evidence

78b.—(1) A copy of any document in the possession or under the control of the clerk of a municipality purporting to be certified by the clerk and under the seal of the corporation may be filed and used in any court or tribunal in lieu of the original and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court or tribunal otherwise directs.

Idem

(2) A copy of any document kept by the Archivist under subsection 78a (1) or (2) and certified by the Archivist may be filed and used in any court or tribunal in lieu of the original and shall be received in evidence without proof of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court or tribunal otherwise directs.

8. Subsection 87 (2) of the said Act is repealed.

9. Subsection 98 (5) of the said Act is repealed and the following substituted therefor:

Costs in
legal
proceedings
R.S.O. 1980,
c. 303

(5) Notwithstanding any other Act, in any proceeding to which a municipality or local board, as defined in the *Municipal Affairs Act*, is a party, costs adjudged to the municipality or local board shall not be disallowed or reduced merely because the solicitor or the counsel who earned the costs, or in respect of whose services the costs are charged, was a salaried officer of the municipality or local board or of a municipality acting on behalf of the local board performing the services in the discharge of the solicitor's or counsel's duty and remunerated therefor by a salary, and for that or any other reason was not entitled to recover any costs from the municipality or local board in respect of the services rendered, and,

- (a) the costs recovered by or on behalf of the municipality shall form part of the general funds of the municipality; and
- (b) the costs recovered by or on behalf of the local board shall form part of the general funds of the local board.

10.—(1) Subsection 100 (1) of the said Act is repealed and the following substituted therefor:

Retirement
allowance

(1) A council may grant an annual retirement allowance, payable weekly, monthly or otherwise, to an employee, during the employee's life, who has had continuous service for at least twenty years with the municipality or with the municipal-

ity and any other municipality or local board as defined in the *Municipal Affairs Act* or any two or more of them and who,

R.S.O. 1980,
c. 303

(a) is retired because of age; or

(b) while in the service of any municipality or local board has become incapable of working through illness or otherwise.

(2) Subsection 100 (5) of the said Act is repealed.

11. Section 117 of the said Act is amended by adding thereto the following subsection:

(7) Notwithstanding any special Act, the approval of the Minister or Ministry is not required to amend any by-law of a municipality related to an approved pension plan.

By-laws
under
special Acts,
approval not
required

12. Section 120 of the said Act is repealed.

13. Subsection 126 (3) of the said Act is amended by striking out "without the assent of the electors" in the third and fourth lines.

14. Section 127 of the said Act is repealed.

15. Subsection 132 (2) of the said Act is repealed and the following substituted therefor:

(2) Instead of publishing a copy of the proposed by-law, the council may publish a synopsis of it.

Synopsis

16. Section 135 of the said Act is repealed.

17. Subsection 137 (2) of the said Act is repealed and the following substituted therefor:

(2) Instead of publishing a true copy of the by-law, the council may publish a synopsis of it.

Synopsis

18. Subsection 148 (4) of the said Act is amended by striking out "without the assent of the electors but" in the sixth line.

19. Section 151 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 16, is repealed.

20.—(1) Clause (b) of paragraph 46 of section 208 of the said Act is repealed.

(2) Paragraphs 48 and 49 of the said section 208 are repealed and the following substituted therefor:

Insurance,
hospitali-
zation,
etc.

R.S.O. 1980,
cc. 197, 218,
388

48. Subject to the *Health Insurance Act*, for providing by contract either with an insurer licensed under the *Insurance Act* or with an association registered under the *Prepaid Hospital and Medical Services Act*,

- i. group life insurance for employees or retired employees or any class or classes thereof,
- ii. group accident insurance or group sickness insurance for employees or retired employees or any class or classes thereof and their spouses and children, and
- iii. hospital, medical, surgical, nursing or dental services or payment therefor for employees or retired employees or any class or classes thereof and their spouses and children,

and for paying the whole or part of the cost thereof.

(a) In this paragraph,

(i) "employee" means an employee as defined in paragraph 46, and

(ii) "retired employee" means a person who was formerly a salaried officer, clerk, worker, servant or other person in the employ of the municipality or of a local board and includes a former member of the police force of the municipality and any person or class of person designated as an employee by the Minister.

(b) Any local board may provide insurance and hospital, medical, surgical, nursing or dental services and payment therefor in the same manner and for the same classes of persons as the council of a municipality, and the provisions of this paragraph apply with necessary modifications thereto.

Contributions
to plans
under
R.S.O. 1980,
c. 197

49. For paying the whole or part of the cost to employees or retired employees of the plan of hospital care insurance or of health services insurance provided for under the *Health Insurance Act*.

(a) In this paragraph, "employee" means an employee as defined in paragraph 46 and "retired employee"

means a retired employee as defined in subclause (a) (ii) of paragraph 48.

- (b) Any local board may contribute toward the cost to employees or retired employees of the plan of hospital care insurance or of health services insurance provided for under the *Health Insurance Act* and the provisions of this paragraph apply with necessary modifications thereto.

R.S.O. 1980,
c. 197

(3) Paragraph 58 of the said section 208 is repealed and the following substituted therefor:

58. For entering into any agreement with Her Majesty in right of Ontario respecting regional economic development and any ancillary or subsidiary agreements with any person required as a result of entering into such an agreement with Her Majesty.

Regional
economic
development
agreements

58a. For establishing and carrying on the business of cold storage in connection with or upon the market property of the corporation.

Cold storage
business

21.—(1) Section 210 of the said Act is amended by adding thereto the following paragraphs:

6a. For requiring, within any defined area or areas of the municipality, any person who owns or harbours a dog to keep the dog leashed and under the control of some person when the dog is on any land of the municipality or of any local board thereof.

Leashing
of dogs

6b. For requiring any person who owns or harbours a dog to remove forthwith excrement left by the dog anywhere in the municipality and for excluding from the operation of the by-law such class or classes of physically handicapped persons as may be set out in the by-law.

Dog waste

(2) Paragraph 71 of the said section 210 is repealed.

(3) Clause (d) of paragraph 125 of the said section 210, as amended by the Statutes of Ontario, 1982, chapter 24, section 10, is repealed and the following substituted therefor:

- (d) Notwithstanding subsection 321a (1) and subject to clause (f), the driver or owner of a motor vehicle parked or left on private property is not liable to any penalty or to have the motor vehicle removed from such property or impounded under a by-law passed under this paragraph except upon the writ-

ten complaint of the owner or occupant of the property given to a constable or officer appointed for the carrying out of the provisions of the by-law.

(4) Paragraph 136 of the said section 210 is repealed.

22. Subsections 211 (17) and (18) of the said Act are repealed and the following substituted therefor:

Repeal of
by-law

(17) A council may amend or repeal any by-law passed under any predecessor of this section, whether or not the by-law was required to be passed upon the application of any number of occupiers of shops in the municipality.

23.—(1) Paragraph 2 of section 225 of the said Act is repealed.

(2) Clause (a) of paragraph 3 of the said section 225 is repealed.

24.—(1) Subsection 225a (1) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 14, section 1, is repealed and the following substituted therefor:

Definition

(1) In this section, "municipality" means,

- (a) a county or a city or other local municipality within a county that has been separated from the county for municipal purposes;
- (b) a local municipality in unorganized territory;
- (c) a metropolitan, regional or district municipality or the County of Oxford.

Gypsy moth
control
programs

(1a) By-laws may be passed by the councils of municipalities for establishing and operating aerial spraying programs to control actual or potential infestations of gypsy moths.

(2) Subsections 225a (3), (5) and (6) of the said Act are amended by striking out "county" and "county's" wherever those words occur and inserting in lieu thereof in each instance "municipality" and "municipality's", as the case may be.

25. Section 253 of the said Act is repealed and the following substituted therefor:

Expenses for
entertaining
guests

253. Notwithstanding the provisions of any general or special Act, the council of any municipality may expend in any year such sum as it may determine for the reception or

entertainment of persons of distinction or the celebration of events or matters that the council considers to be of interest or importance.

26. Section 261 of the said Act is repealed and the following substituted therefor:

261.—(1) The council of a county has jurisdiction over every highway and boundary line assumed by the council and every bridge thereon.

Jurisdiction
of county
council over
highways

(2) Where the council of a county has jurisdiction over a highway, the council of the county, at the expense of the county, shall cause to be erected and maintained or rebuilt or replaced and maintained the bridges on the highway.

Duty with
respect to
bridges

(3) Subject to a by-law passed under subsection 278 (1), the council of a county continues on and after the day this section comes into force,

Continued
jurisdiction
over certain
bridges

- (a) to have jurisdiction over all bridges over which it had jurisdiction immediately before this section comes into force;
- (b) to have joint jurisdiction over all bridges over which it had joint jurisdiction immediately before this section comes into force,

and the council of the county, at the expense of the county or at the joint expense of the municipalities, as the case may be, shall cause every such bridge to be rebuilt or replaced and maintained.

27. Section 262 of the said Act is amended by inserting after “is” in the first line “to maintain or”.

28. Section 263 of the said Act is amended by inserting after “is” in the first line “to maintain or”.

29. Section 266 of the said Act is repealed.

30.—(1) Subsection 270 (1) of the said Act is repealed and the following substituted therefor:

(1) The council of a county may by by-law assume as a county road any highway within a town, not being a separated town, or within a village or township.

Assumption
by
county
councils
of highways

(2) Subsection 270 (7) of the said Act is repealed and the following substituted therefor:

Effect of
repeal

(7) When a by-law passed under this section is repealed, the highway and the bridges thereon cease to be under the jurisdiction of the council of the county and falls and is under the jurisdiction of the council or councils that had jurisdiction over it at the time of the passing of the by-law for assuming it.

31. Sections 273, 274 and 275 of the said Act are repealed.

32. Sections 276, 277 and 278 of the said Act are repealed and the following substituted therefor:

Bridges on
highways
under
different
jurisdictions

276.—(1) Where a bridge joins or is to join a highway under the jurisdiction of one municipal corporation to a highway under the jurisdiction of another municipal corporation, it is the duty of the municipal corporations whose highways are joined or to be joined to maintain or erect and maintain the bridge.

Bridges on
boundary
lines

(2) Where a bridge forms part of a boundary line, it is the duty of the municipal corporations that are responsible for maintaining the boundary line to maintain or to erect and maintain all necessary bridges on the boundary line.

Maintenance
of boundary
lines

277.—(1) Boundary lines between local municipalities, including those that also form county boundary lines, shall be maintained by the corporations of such municipalities.

Exceptions

(2) Subsection (1) does not apply to boundary lines assumed by the council of the county or to such bridges as are under this Act to be maintained or erected and maintained by another corporation.

Local
municipalities
to erect and
maintain
certain
bridges

278.—(1) Where a bridge that is not on a county road or that is not on a boundary line assumed by the county is under the exclusive or joint jurisdiction of the council of a county, the council of the county may transfer by by-law its jurisdiction and control over the bridge to the council or councils of the local municipality or local municipalities in the county that has or have jurisdiction over the highway or boundary line on which the bridge is situate and the transfer may be made on such terms and conditions as the councils may agree upon.

Approval

(2) A by-law passed under subsection (1) does not take effect until it is approved by a by-law of the local municipality or the local municipalities to which the jurisdiction and control over the bridge is being transferred.

Effect of
transfer

(3) On the day that a transfer under subsection (1) takes effect, all rights, liabilities and obligations of the county in respect of the bridge are transferred to and are vested in and

imposed upon the local municipality or, where the jurisdiction is transferred to the council of more than one local municipality, the local municipalities, jointly.

33.—(1) Subsection 298 (3) of the said Act is repealed and the following substituted therefor:

(3) A by-law passed under clause (1) (b) for altering or diverting any highway or part of a highway or under clause (1) (c) or (d) in respect of an allowance for road reserved in the original survey,

Minister's
approval

- (a) along the bank of any river, stream or other water;
- (b) along or on the shore of any lake or other water;
- (c) leading to the bank of any river or stream; or
- (d) leading to the shore of any lake or other water,

does not take effect until it has been approved by the Minister and, where the by-law is one to which subsection (7) applies, it shall not be submitted to the Minister until it has been passed in compliance with subsection (8) or (9), but the approval of the Minister is not required for a by-law for leasing a stopped-up highway or part of a highway to an owner of land that abuts on it for a period not in excess of thirty years.

(2) Subsections 298 (6) and (7) of the said Act are repealed and the following substituted therefor:

(7) Where the council of a township that forms part of a county for municipal purposes intends to pass a by-law under clause (1) (c), it shall so notify in writing the clerk of the county by registered mail or by personal service.

Notice to
clerk of
county

(3) Subsection 298 (12) of the said Act is repealed and the following substituted therefor:

(12) A by-law passed under subsection (1), or any predecessor of subsection (1), for closing any street, road or highway or for opening upon any private property, any street, road or highway does not take effect until it has been registered in the land registry office of the land titles division or registry division in which the land is situate, and the by-law shall be registered without further proof by depositing a copy certified under the hand of the clerk and the seal of the municipality.

Registration
of by-laws

Exception

(13) Subsection (12) does not apply, and shall be deemed never to have applied, so as to require the registration of a by-law passed before the 29th day of March, 1873.

Idem

(14) Subsection (12) does not apply so as to require the registration of a by-law passed before the day this subsection comes into force in respect of land registered under the *Land Titles Act*.

R.S.O. 1980,
c. 230

Moneys to
be paid into
special
account

(15) All moneys received by the municipality from the selling or leasing of a stopped-up highway or part of a highway, the stopping-up of which is subject to the approval of the Minister under subsection (3), less any amount expended by the municipality out of its general funds for the purpose of stopping-up and selling or leasing the highway or part thereof, shall be paid into a special account and the provisions of subsection 50 (12) of the *Planning Act*, 1983 apply to such account and the moneys therein.

1983, c. 1

34. The said Act is further amended by adding thereto the following section:

Noise
abatement
works

309a.—(1) By-laws may be passed by the council of every municipality for constructing noise abatement works on the untravelling portion of any highway.

Definition

(2) For the purposes of subsection (1), "municipality" includes a metropolitan, regional and district municipality and the County of Oxford.

Application
of
R.S.O. 1980,
c. 250

(3) The *Local Improvement Act* applies to a county, metropolitan, regional and district municipality and the County of Oxford for the purpose of constructing noise abatement works as if each of them were a municipality as defined in that Act.

Special
assessment
and
collection of
special
assessments

(4) If a municipality described in subsection (3) (herein referred to as an upper tier municipality) proceeds under the *Local Improvement Act*, a local municipality shall provide all information requested by the upper tier municipality for the purpose of the preparation of the special assessment rolls, and the clerk of the upper tier municipality, after certifying the special assessment rolls, shall forward the same to the treasurer of the local municipality concerned who shall enter the special assessments on the collector's roll and collect the same in the same manner as taxes and remit the same with the penalties, if any, to the treasurer of the upper tier municipality.

35. Section 316 of the said Act is repealed and the following substituted therefor:

316.—(1) Subject to sections 317 and 318, where a highway or any part of a highway over which a municipality has jurisdiction has been closed under this Act, the *Registry Act* or the *Land Titles Act* and the council of the municipality determines to sell the land forming the highway or the part of the highway so closed, the land shall be sold in accordance with this section.

Sale of
closed
highway
R.S.O. 1980,
cc. 445, 230

(2) The council shall by by-law set the sale price of the land to be sold and shall offer to sell it to the owner of the land abutting the land to be sold and where,

Sale to
abutting
owners

- (a) there are parcels of land abutting on opposite sides of the land to be sold, the owner of each parcel has the right of first refusal to purchase the land to its middle line;
- (b) the land to be sold is abutted on one side by a highway that has not been closed or by a stream, river or other body of water over which the public has rights of navigation or of floating timber, the owner whose land abuts the land to be sold on the other side has the right of first refusal to purchase the land;
- (c) the land to be sold does not include the whole width of the former highway, the owner whose land abuts on the land to be sold has the right of first refusal to purchase the land.

(3) If a person entitled under subsection (2) to purchase the land does not exercise the right to purchase within such period as may be fixed by by-law, the municipality may sell the land that the person had the right to purchase to any other person at the price set under subsection (2) or at a greater price.

Sale to
other persons

(4) Where the municipality is unable to sell the land at or above the sale price set under subsection (2), the council may set a lower price under that subsection and this section applies to a sale at the lower price.

Sale at
lower price

(5) Where land is sold to an abutting owner under this section, the sidelines of the parcels abutting the land to be sold shall be extended to include the land to be sold in such manner as the council considers fair and reasonable.

Sidelines

(6) A municipality shall not use the power conferred by this section to sell land that is covered with water.

Limitation

36. Section 325 of the said Act is amended by striking out “without obtaining the assent of the electors” in the eleventh and twelfth lines.

PART II

AMENDMENTS TO OTHER ACTS

37.—(1) Subsection 2 (1) of the *Local Improvement Act*, being chapter 250 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (s) constructing noise abatement works on the untravelled portion of a street.

(2) Subsection 27 (1) of the said Act is repealed and the following substituted therefor:

Corporation
may assume
part of cost
of certain
works

(1) Subject to subsection (3), the council of the corporation of a municipality in which there is not in force a by-law passed under section 70 applicable to the work may, by by-law passed at a general or special meeting by a vote of three-fourths of all the members of the council, provide that such part as the council considers proper of the cost of any of the following works constructed as a local improvement that otherwise would be chargeable upon the land abutting directly on the work shall be paid by the corporation:

1. Any granolithic, stone, cement, asphalt or brick sidewalk.
2. Any pavement or curbing.
3. Any works, plant, appliances and equipment for street lighting.
4. Any noise abatement works.

(3) Subsection 31 (1) of the said Act is amended by inserting after “watermain” in the second line “or noise abatement works”.

(4) Subsection 32 (1) of the said Act is amended by striking out “or (r)” in the eighth line and inserting in lieu thereof “(r) or (s)”.

(5) Subsection 68 (2) of the said Act is amended by inserting after “pavement” in the second line “noise abatement works”.

38.—(1) Subsection 44 (3) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “or councillor”.

(2) Subsection 92 (1) of the said Act is amended by striking out “or” at the end of clause (b), by inserting “or” at the end of clause (c) and by adding thereto the following clause:

- (d) the Minister makes an order under section 48 of the *Municipal Act*.

R.S.O. 1980,
c. 302

39.—(1) Subclause 5 (2) (a) (iii) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “aldermen” in the fifth line and inserting in lieu thereof “other members of council”.

(2) Clause 5 (2) (b) of the said Act is amended by striking out “aldermen” in the second line and inserting in lieu thereof “other members of council”.

(3) Subsection 5 (4) of the said Act is amended by striking out “alderman, or aldermen” in the third and fourth lines and inserting in lieu thereof “other member or members of council”.

(4) Clause 152 (1) (c) of the said Act is repealed and the following substituted therefor:

- (c) the following number of other members of council:

- (i) if elected by general vote, not fewer than four members, or
- (ii) if elected by wards and the area municipality has four or more wards, one, two or three members for each ward, or, if the area municipality has fewer than four wards, two or three members for each ward.

(5) Subsection 152 (2) of the said Act is repealed and the following substituted therefor:

(2) The Borough of East York shall be deemed to be a city municipality for the purposes of subsections 30 (8), (9), (10) and (11) and section 68 of the *Municipal Act*.

Borough of
East York,
use of
designation
councillor;
board of
control
R.S.O. 1980,
c. 302

(6) The definition of “city alderman” in subsection 152a (1) of the said Act, as enacted by the Statutes of Ontario, 1985,

chapter 2, section 4, is repealed and the following substituted therefor:

“city alderman or councillor” means a person described in clause (2) (b).

(7) Subsection 152a (4) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4, is amended by adding at the end thereof “or councillors”.

(8) Subsection 152a (6) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4, is amended by inserting after “aldermen” in the fourth line “or councillors”.

(9) Subsection 152a (7) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4, is amended by inserting after “alderman” in the third line “or councillor”.

40. Subsection 3 (1) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Composition
of councils

(1) The council of each area municipality shall be composed of a mayor, who shall be elected by general vote and shall be the head of the council, and the following number of other members of council:

1. Town of Lincoln—eight members elected by wards.
2. Town of Fort Erie—eight members elected by wards.
3. Town of Grimsby—eight members elected by general vote.
4. City of Niagara Falls—twelve members elected by wards.
5. Town of Niagara-on-the-Lake—eight members elected by general vote.
6. Town of Pelham—six members elected by wards.
7. City of Port Colborne—eight members elected by wards.
8. City of St. Catharines—twelve members elected by wards.

9. City of Thorold—ten members elected by general vote.
10. Township of Wainfleet—four members elected by general vote.
11. City of Welland—twelve members elected by wards.
12. Township of West Lincoln—six members elected by wards.

(1a) Subsections 30 (8), (9), (10) and (11) of the *Municipal Act* apply to an area municipality which is a town or township as if it were a city municipality.

Application
of
R.S.O. 1980,
c. 302

41.—(1) Paragraph 1 of subsection 3 (1) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “aldermen” in the first line and inserting in lieu thereof “members”.

(2) Clause 6 (b) of the said Act is repealed and the following substituted therefor:

- (b) the council of the City of Sudbury so long as the total number of members of council, excluding the mayor, does not exceed nine.

42. Subsections 57 (2) to (9) of the *Surveys Act*, being chapter 493 of the Revised Statutes of Ontario, 1980, are repealed.

43. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

44. The short title of this Act is the *Municipal Statute Law Amendment Act, 1987*.

Short title

Bill 180

An Act to establish the Ministry of Financial Institutions

The Hon. M. Kwinter
*Minister of Financial
Institutions*

1st Reading December 17th, 1986
2nd Reading
3rd Reading
Royal Assent

Projet de loi 180

Loi portant création du ministère des Institutions financières

L'honorable M. Kwinter
*ministre des Institutions
financières*

1^{re} lecture 17 décembre 1986
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill establishes the Ministry of Financial Institutions.

NOTE EXPLICATIVE

Le projet de loi porte création du ministère des Institutions financières.

Bill 180**1986****An Act to establish the
Ministry of Financial Institutions**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,"sous-
ministre"

"Deputy Minister" means the Deputy Minister of Financial Institutions;

"ministre"

"Minister" means the Minister of Financial Institutions;

"ministère"

"Ministry" means the Ministry of Financial Institutions.

Ministry
established**2.** There shall be a ministry of the public service to be known as the Ministry of Financial Institutions.Minister to
have charge**3.** The Minister shall preside over and have charge of the Ministry and has power to act for and on behalf of the Ministry.Functions of
Minister**4.—(1)** It is the function of the Minister,

- (a) to advise the Government respecting financial institutions and services in Ontario;
- (b) to develop policies to increase the domestic and international competitiveness of Ontario in the financial services sector;
- (c) to develop policies and programs to improve protection for the consumer of financial services;
- (d) to appoint task forces and advisory committees and to conduct studies respecting financial institutions and services;

Projet de loi 180**1986****Loi portant création du ministère
des Institutions financières**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Les définitions qui suivent s'appliquent à la présente loi. Définitions

«ministère» Le ministère des Institutions financières. «Ministry»

«ministre» Le ministre des Institutions financières. «Minister»

«sous-ministre» Le sous-ministre des Institutions financières. «Deputy Minister»

2 Est créé un ministère de la fonction publique portant le nom de ministère des Institutions financières. Création du ministère

3 Le ministre dirige le ministère et en a la responsabilité. Il a le pouvoir d'agir pour le compte du ministère et en son nom. Responsabilité du ministre

4 (1) Les fonctions du ministre sont les suivantes : Fonctions du ministre

- a) conseiller le gouvernement en ce qui a trait aux institutions financières et aux services financiers en Ontario;
- b) élaborer des politiques visant à accroître la compétitivité de l'Ontario dans le secteur des services financiers, au Canada et à l'étranger;
- c) élaborer des politiques et des programmes visant à mieux protéger les consommateurs de services financiers;
- d) constituer des groupes de travail et des comités consultatifs et effectuer des études portant sur les institutions financières et les services financiers;

- (e) to promote investor confidence in financial institutions in Ontario;
- (f) to develop systems for monitoring the financial stability of financial institutions;
- (g) to assist in the rehabilitation of financial institutions when it is in the public interest to do so;
- (h) to collect and disseminate information on financial institutions and services in Ontario; and
- (i) to promote high standards of business and management for financial institutions and others who provide financial services in Ontario.

Idem

(2) For the purpose of carrying out his or her functions under this Act, the Minister may,

- (a) make grants and loans out of moneys appropriated by the Legislature;
- (b) provide funding for task forces, advisory committees and studies; and
- (c) enter into agreements with any government, agency or person.

Adminis-
tration
of Acts

5.—(1) The Minister is responsible for the administration of this Act, the Acts set out in the Schedule and the Acts that are assigned to the Minister by the Legislature or by the Lieutenant Governor in Council.

Amendments
to Schedule

(2) The Lieutenant Governor in Council may by order amend the Schedule.

Annual
report

(3) After the end of each year, the Minister shall submit to the Lieutenant Governor in Council an annual report upon the affairs of the Ministry and shall then lay the report before the Assembly if it is in session or, if not, at the next session.

Deputy
Minister

6.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Financial Institutions who shall be the deputy head of the Ministry.

- e) favoriser la confiance des investisseurs dans les institutions financières de l'Ontario;
- f) élaborer des systèmes de contrôle de la stabilité financière des institutions financières;
- g) aider au redressement de la situation des institutions financières quand cela est dans l'intérêt du public;
- h) rassembler et diffuser des renseignements sur les institutions financières et les services financiers en Ontario;
- i) favoriser l'élaboration et le respect, par les institutions financières et autres fournisseurs de services financiers en Ontario, de normes élevées dans leurs affaires et leur gestion.

(2) Dans l'exercice de ses fonctions en vertu de la présente loi, le ministre peut : Idem

- a) accorder des subventions et consentir des prêts en prélevant les sommes affectées à cette fin par la législature;
- b) pourvoir au financement de groupes de travail, de comités consultatifs et des études qui sont faites;
- c) conclure des ententes avec un gouvernement, une agence ou une personne.

5 (1) Le ministre est chargé de l'application de la présente loi, des lois qui figurent à l'annexe et des lois qui lui sont confiées par la législature ou par le lieutenant-gouverneur en conseil. Application des lois

(2) Le lieutenant-gouverneur en conseil peut modifier l'annexe par décret. Modification de l'annexe

(3) Au terme de chaque exercice, le ministre présente au lieutenant-gouverneur en conseil un rapport annuel sur les affaires du ministère. Le ministre le dépose ensuite devant l'Assemblée si elle siège, sinon à la session suivante. Rapport annuel

6 (1) Le lieutenant-gouverneur en conseil nomme un sous-ministre des Institutions financières qui exerce les fonctions d'administrateur général du ministère. Sous-ministre

Staff
R.S.O. 1980,
c. 418

(2) Subject to the *Public Service Act*, there may be appointed such other officers and employees as the Minister considers necessary for the proper conduct of the business of the Ministry.

Delegation
of powers
and
duties

7.—(1) Where, under this or any other Act, a power is granted to or vested in or a duty is imposed upon the Minister, the Minister may delegate in writing that power or the obligation to perform that duty to the Deputy Minister, to an officer or employee of the Ministry or to any other public servant, subject to the conditions set out in the delegation.

Idem
R.S.O. 1980,
c. 274

(2) A delegation made under the *Ministry of Consumer and Commercial Relations Act* in relation to an Act set out in the Schedule shall be deemed to have been made by the Minister.

Deeds and
contracts
R.S.O. 1980,
c. 147

(3) Notwithstanding section 6 of the *Executive Council Act*, a deed or contract signed by a person empowered to do so under a delegation made under subsection (1) has the same effect as if signed by the Minister.

Facsimile
signature

(4) The Minister may authorize the use of a facsimile of his or her signature and the Deputy Minister may authorize the use of a facsimile of his or her signature on any document except an affidavit or a statutory declaration.

Idem

(5) A facsimile of the signature of the Minister or the Deputy Minister affixed to a document under an authorization made under subsection (4) shall be deemed to be the signature of the Minister or the Deputy Minister, as the case may be.

Protection
from
personal
liability

8.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister, any officer or employee of the Ministry, anyone acting under the authority of the Minister or the Deputy Minister, or anyone appointed under this Act or an Act set out in the Schedule for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Crown
Liability
R.S.O. 1980,
c. 393

(2) Notwithstanding subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

Delegation of
power to
hold hearing
R.S.O. 1980,
c. 249

9.—(1) Where, under any Act, the Minister, the Superintendent of Insurance, the Registrar appointed under the *Loan and Trust Corporations Act* or the Director of Credit

(2) Sous réserve de la *Loi sur la fonction publique*, d'autres fonctionnaires et employés peuvent être nommés selon ce que le ministre juge nécessaire afin d'assurer le bon fonctionnement du ministère.

Personnel
L.R.O. 1980,
chap. 418

7 (1) Le ministre peut déléguer au sous-ministre, à un fonctionnaire, à un employé du ministère ou à un autre fonctionnaire tout pouvoir ou obligation que lui confère ou impose la présente loi ou une autre loi. La délégation est écrite et peut être assortie de conditions.

Délégation de
pouvoirs et
d'obligations

(2) La délégation faite aux termes de la *Loi sur le ministère de la Consommation et du Commerce* relativement à une loi qui figure à l'annexe, est réputée faite par le ministre.

Idem
L.R.O. 1980,
chap. 274

(3) Malgré l'article 6 de la *Loi sur le Conseil des ministres*, un acte ou un contrat signé par une personne habilitée à ce faire en vertu d'une délégation faite aux termes du paragraphe (1) a le même effet que s'il est signé par le ministre.

Actes et
contrats
L.R.O. 1980,
chap. 147

(4) Le ministre et le sous-ministre peuvent chacun autoriser l'utilisation d'un fac-similé de leur signature sur tout document, à l'exclusion d'un affidavit ou d'une déclaration solennelle.

Fac-similé de
signature

(5) Un fac-similé de la signature du ministre ou du sous-ministre apposé à un document en vertu d'une autorisation accordée aux termes du paragraphe (4), est réputé la signature du ministre ou du sous-ministre, selon le cas.

Idem

8 (1) Sont irrecevables les actions ou autres instances en dommages-intérêts intentées contre le sous-ministre, un fonctionnaire ou un employé du ministère, quiconque agit sous l'autorité du ministre ou du sous-ministre ou quiconque nommé en vertu de la présente loi ou d'une loi qui figure à l'annexe, pour un acte accompli de bonne foi dans l'exercice ou prétendu exercice de leurs fonctions ou pour négligence ou défaut imputé et commis dans cet exercice de bonne foi.

Immunité

(2) Malgré les paragraphes 5 (2) et (4) de la *Loi sur les instances introduites contre la Couronne*, le paragraphe (1) ne dégage pas la Couronne de la responsabilité qu'elle serait autrement tenue d'assumer à l'égard d'un délit civil commis par une personne visée au paragraphe (1).

Responsabilité
de la
Couronne
L.R.O. 1980,
chap. 393

9 (1) Si, en vertu d'une loi, le ministre, le surintendant des assurances, le registrateur nommé aux termes de la *Loi sur les compagnies de prêt et de fiducie*, ou le directeur des caisses populaires a le pouvoir ou l'obligation de tenir une audience

Délégation du
pouvoir de
tenir une
audience

Unions has the power or duty to hold a hearing before making a decision, such official may delegate the power and duty to hold a hearing and make a decision to one or more persons appointed by the Lieutenant Governor in Council on the recommendation of the Minister.

Appointment
by
Lieutenant
Governor in
Council

(2) The Lieutenant Governor in Council, on the recommendation of the Minister, may by order appoint persons, including members of the public service, for any purpose mentioned in subsection (1), who shall hold office during pleasure.

Presiding
officer

(3) Where more than one person is delegated a power or duty under subsection (1), the official who delegated the power or duty shall designate one of them as presiding officer.

Remuneration
and expenses

(4) Persons appointed under subsection (2), other than members of the public service, shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and the reasonable expenses incurred by them in the course of their duties under this Act.

Decisions

(5) Where more than one person is delegated a power or duty under subsection (1), the decision of the majority shall be deemed to be the decision of the official who delegated the power or duty, but, if there is no majority, the decision of the presiding officer governs.

Amendment
of subs. (1)

(6) On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out "Registrar appointed under the *Loan and Trust Corporations Act*" and inserting in lieu thereof "Superintendent or the Director appointed under the *Loan and Trust Corporations Act, 1986*".

1986, c. ...

Accounting
statement
respecting
grant or loan
R.S.O. 1980,
c. 405

10.—(1) The Minister may require a recipient of a grant or loan under this Act to submit to the Minister a statement prepared by a person licensed under the *Public Accountancy Act* that sets out the details of the disposition of the grant or loan by the recipient.

Idem

(2) Where the Minister requires a statement under subsection (1), the recipient shall arrange for the preparation of the statement forthwith and provide the statement as soon as practicable.

Guarantee
of loans

11.—(1) On the recommendation of the Treasurer of Ontario and Minister of Economics, the Lieutenant Governor

avant de prendre une décision, le ministre ou ce haut fonctionnaire peut déléguer ce pouvoir ou cette obligation à une ou plusieurs personnes qu'a nommées le lieutenant-gouverneur en conseil sur la recommandation du ministre.

(2) Le lieutenant-gouverneur en conseil, sur la recommandation du ministre, peut, par décret, nommer des personnes, y compris des membres de la fonction publique, à l'une des fins prévues au paragraphe (1). Ces personnes exercent leurs fonctions à titre amovible.

Nomination
par le
lieutenant-
gouverneur
en conseil

(3) Si un pouvoir ou une obligation est délégué à plus d'une personne aux termes du paragraphe (1), le ministre ou le haut fonctionnaire qui a délégué le pouvoir ou l'obligation désigne une de ces personnes comme président.

Président

(4) Les personnes nommées aux termes du paragraphe (2), à l'exclusion des membres de la fonction publique, reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil, et le paiement des frais normaux qu'elles ont engagés dans l'exercice de leurs fonctions aux termes de la présente loi.

Rémunération
et frais

(5) Si un pouvoir ou une obligation est délégué à plus d'une personne aux termes du paragraphe (1), la décision de la majorité est réputée la décision du ministre ou du haut fonctionnaire qui a délégué le pouvoir ou l'obligation. En cas de partage, le président a voix prépondérante.

Décisions

(6) À la date que le lieutenant-gouverneur fixe par proclamation, le paragraphe (1) est modifié par substitution des mots «surintendant ou le directeur nommé aux termes de la *Loi de 1986 sur les compagnies de prêt et de fiducie*» aux mots «registrateur nommé aux termes de la *Loi sur les compagnies de prêt et de fiducie*».

Modification
du par. (1)

1986.
chap. ...

10 (1) Le ministre peut exiger du bénéficiaire d'une subvention accordée ou d'un prêt consenti en vertu de la présente loi qu'il lui présente un relevé établi par une personne agréée aux termes de la *Loi sur les experts-comptables* qui indique en détail la manière dont le bénéficiaire a fait usage des fonds provenant de la subvention ou du prêt.

Relevé comptable
concernant une
subvention ou
un prêt
L.R.O. 1980,
chap. 405

(2) Si le ministre exige le relevé visé au paragraphe (1), le bénéficiaire prend sans délai les dispositions nécessaires à l'établissement du relevé qu'il fournit dès que cela est possible.

Idem

11 (1) Sur la recommandation du trésorier de l'Ontario et ministre de l'Économie, le lieutenant-gouverneur en conseil

Prêts garantis

in Council may, for any of the purposes of this Act, guarantee the payment of any loan or a part thereof, together with interest thereon, made to any person.

Form of
guarantee

(2) A guarantee under subsection (1) shall be in the form and on the terms approved by the Lieutenant Governor in Council and shall be signed by the Treasurer of Ontario or by such other officer or officers as the Lieutenant Governor in Council designates.

Province
liable for
payment

(3) The Province of Ontario is liable for the payment of the loan or part thereof and interest thereon according to the terms of the guarantee signed in accordance with subsection (2).

Payment of
interest

(4) Where a guarantee is given under subsection (1), the Lieutenant Governor in Council may authorize the payment by the Province of Ontario of the whole or any part of the interest on the loan for the whole or any part of the term of the guarantee.

Payment of
guarantee

(5) The moneys necessary to fulfill the requirements of any guarantee under this section shall be paid out of the Consolidated Revenue Fund.

Offence

12. No person shall, in respect of a grant or loan made under this Act,

- (a) make a false or misleading statement in an application or other document;
- (b) furnish any false or misleading information; or
- (c) expend or commit the whole or part of the grant or loan for a purpose other than the purpose for which it was given.

Appointment
of
investigators

13.—(1) The Minister may appoint employees of the Ministry as investigators to carry out investigations related to any grant, loan or guarantee made or given under this Act.

Powers on
investigation

(2) An investigator, in carrying out an investigation under subsection (1), may,

- (a) enter any place;
- (b) require any person to furnish information within a reasonable specified time;

peut, pour toute application de la présente loi, garantir le remboursement de la totalité ou d'une partie d'un prêt consenti à quiconque, ainsi que le paiement des intérêts qui s'y rapportent.

(2) Le lieutenant-gouverneur en conseil approuve la forme de la garantie et les conditions de celle-ci. Cette garantie est signée par le trésorier de l'Ontario ou par le ou les fonctionnaires que le lieutenant-gouverneur en conseil désigne.

Forme de la
garantie

(3) La province de l'Ontario est responsable du remboursement de la totalité ou d'une partie du prêt, ainsi que du paiement des intérêts qui s'y rapportent, selon les conditions de la garantie signée conformément au paragraphe (2).

La province
est responsa-
ble du paie-
ment

(4) S'il a donné une garantie aux termes du paragraphe (1), le lieutenant-gouverneur en conseil peut autoriser le paiement, par la province de l'Ontario, de la totalité ou d'une partie des intérêts qui se rapportent au prêt pour l'ensemble ou une partie de la durée de la garantie.

Paiement des
intérêts

(5) Les fonds nécessaires pour honorer les obligations qui découlent d'une garantie donnée aux termes du présent article sont prélevés sur le Fonds du revenu consolidé.

Paiement du
montant cou-
vert par la
garantie

12 En ce qui concerne une subvention accordée ou un prêt consenti en vertu de la présente loi, nul ne doit :

Infraction

- a) soit faire une déclaration fausse ou trompeuse sur une demande ou un autre document;
- b) soit fournir des renseignements faux ou trompeurs;
- c) ou bien dépenser ou affecter la totalité ou une partie de la subvention ou du prêt à une fin autre que celle faisant l'objet de la somme accordée.

13 (1) Le ministre peut nommer, parmi les employés du ministère, des enquêteurs pour qu'ils effectuent des enquêtes portant sur une subvention accordée, un prêt consenti ou une garantie donnée en vertu de la présente loi.

Nomination
d'enquêteurs

(2) Dans le cadre de l'enquête visée au paragraphe (1), l'enquêteur peut :

Pouvoirs des
enquêteurs

- a) pénétrer dans un endroit quelconque;
- b) exiger de quiconque qu'il fournisse des renseignements dans un délai raisonnable précisé;

- (c) require any person to produce any document or thing in his or her possession or control;
- (d) on giving a receipt therefor, remove from a place documents produced in response to a request under clause (c) for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the person who produced them; and
- (e) examine any person under oath.

Idem

(3) For the purpose of an examination under clause (2) (e), an investigator may administer oaths and, on giving reasonable notice, may require persons to attend at the time and place specified in the notice.

Reasonable times

(4) The powers conferred by this section shall be exercised only at reasonable times.

Identification

(5) An investigator exercising a power under this section shall provide identification at the time of entry.

Entry into dwellings

(6) An investigator, in the exercise of a power under this section, shall not enter a place that is being used as a dwelling without the consent of the occupier except under the authority of an inspection order issued under this section.

Inspection order for search

(7) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to an investigation under this section, the justice of the peace may issue an inspection order authorizing the investigator named in the order to search the place for any such documents or things and to remove them for the purpose of making copies or extracts, and they shall be returned promptly to the place from which they were removed.

Inspection order for entry

(8) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that an investigator may carry out an investigation under this section, the justice of the peace may issue an inspection order authorizing such entry by the investigator named in the order.

- c) exiger de quiconque qu'il produise tout document ou objet en sa possession ou sous son contrôle;
- d) après avoir donné un récépissé à cet effet, enlever de quelque endroit où ils se trouvent les documents produits à la suite de la demande formulée en vertu de l'alinéa c), aux fins d'en tirer des copies ou des extraits, après quoi les documents sont promptement retournés à la personne qui les a produits;
- e) interroger quiconque sous serment.

(3) Dans le cadre de l'interrogatoire visé à l'alinéa (2) e), l'enquêteur peut faire prêter serment et peut, après avoir donné un avis suffisant, exiger des personnes qu'elles soient présentes à l'endroit et à l'heure précisés dans l'avis.

Idem

(4) Les pouvoirs que confère le présent article ne sont exercés qu'à des heures raisonnables.

Heures
raisonnables

(5) Dans l'exercice d'un pouvoir que confère le présent article, l'enquêteur présente une pièce d'identité au moment de pénétrer dans un endroit.

Pièce
d'identité

(6) Dans l'exercice d'un pouvoir que confère le présent article, l'enquêteur ne doit pas pénétrer dans un endroit qui sert de logement sans la permission de l'occupant, sauf en vertu d'une ordonnance d'inspection rendue aux termes du présent article.

Accès à un
logement

(7) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il se trouve dans un endroit quelconque des documents ou des objets qu'on peut raisonnablement croire susceptibles de fournir des preuves pertinentes à l'enquête effectuée en vertu du présent article, peut rendre une ordonnance d'inspection. L'ordonnance autorise l'enquêteur qui y est nommé à perquisitionner à cet endroit en vue d'en enlever les pièces précitées pour en tirer des copies ou des extraits, après quoi ces pièces sont promptement retournées à cet endroit.

Perquisition

(8) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il existe des motifs raisonnables de croire qu'il est nécessaire qu'un enquêteur, dans le cadre de l'enquête effectuée en vertu du présent article, pénètre dans un endroit qui sert de logement ou dont l'accès a été refusé, peut rendre une ordonnance d'inspection autorisant l'enquêteur qui y est nommé à pénétrer dans cet endroit.

Ordonnance
pour pénétrer
dans un
endroit

Execution
and expiry
of order

(9) An inspection order issued under this section,

- (a) shall specify the hours and days during which it may be executed; and
- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

Ex parte
application

(10) A justice of the peace may receive and consider an application for an inspection order under this section without notice to and in the absence of the owner or the occupier of the premises.

Admissibility
of copies

(11) Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Obstruction
of
investigator

14.—(1) No person shall hinder or obstruct an investigator in the lawful performance of his or her duties or furnish an investigator with false information or refuse to attend an examination for which reasonable notice has been given, or refuse to furnish an investigator with information, documents or things required for the purposes of an investigation under section 13.

Obligation to
assist
investigator

(2) Every person shall furnish all necessary means in his or her power to facilitate any entry, inspection or inquiry by, or any production to, an investigator in the lawful performance of his or her duties.

Offence

15.—(1) Every person who contravenes subsection 10 (2) or section 12 or 14 and every director or officer of a corporation who concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Idem

(2) Notwithstanding subsection (1), where a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed on the corporation is \$100,000.

Restitution

(3) Where a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto.

(9) L'ordonnance rendue aux termes du présent article :

Exécution et
caducité de
l'ordonnance

- a) précise les heures et les jours pendant lesquels elle peut être exécutée;
- b) porte une date de caducité qui ne peut être postérieure à quinze jours de la date où elle a été rendue.

(10) Le juge de paix peut recevoir et examiner une requête d'ordonnance d'inspection présentée en vertu du présent article, sans préavis au propriétaire ou à l'occupant des locaux et en l'absence de ceux-ci.

Requête sans
préavis

(11) Les copies ou extraits qu'une personne a tirés des documents et des objets qui ont été enlevés d'un endroit aux termes de la présente loi, et que cette personne certifie être conformes aux originaux, sont admissibles en preuve dans la même mesure et ont la même valeur probante que les documents ou les objets dont ils sont tirés.

Admissibilité
des copies

14 (1) Nul ne doit entraver ni gêner un enquêteur dans l'exercice légitime de ses fonctions, lui fournir de faux renseignements, refuser d'être présent à un interrogatoire pour lequel un avis suffisant a été donné, ni refuser de lui fournir les renseignements, documents ou objets exigés aux fins de l'enquête visée à l'article 13.

Interdiction
d'entraver
l'enquêteur

(2) Toute personne met tous les moyens nécessaires dont elle dispose à la disposition de l'enquêteur dans l'exercice légitime de ses fonctions afin de l'aider à pénétrer dans un endroit quelconque, faciliter son inspection ou son enquête ou favoriser la production de documents.

Obligation
d'aider
l'enquêteur

15 (1) Quiconque contrevient au paragraphe 10 (2) ou à l'article 12 ou 14 et tout administrateur ou dirigeant d'une personne morale qui participe à cette contravention est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$.

Infraction

(2) Malgré le paragraphe (1), si une personne morale est reconnue coupable d'une infraction aux termes du paragraphe (1), l'amende maximale qui peut lui être imposée est de 100 000 \$.

Idem

(3) Le tribunal qui prononce la déclaration de culpabilité peut, en plus de toute autre peine, ordonner à la personne reconnue coupable de l'infraction aux termes de la présente loi de verser une indemnité ou de faire restitution en conséquence.

Restitution

Limitation
period

(4) No proceeding for an offence under this Act shall be commenced in any court more than two years after the facts upon which the proceedings are based first came to the knowledge of the Minister.

Repayment
of
grant or loan

(5) On a conviction for an offence under section 12, the amount of the grant or loan in respect of which the offence was committed, together with interest thereon, shall be deemed to be a debt due to the Crown and may be recovered by an action in a court of competent jurisdiction.

Seal

16.—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry.

Idem

(2) The seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction and, when so reproduced, has the same effect as if manually affixed.

References
to Minister
and Ministry

17.—(1) Except where the context otherwise requires, in any Act listed in the Schedule or in any regulation, order in council, ministerial order or other document, act or thing made or done under any such Act or provision, a reference to the Minister or Deputy Minister of Consumer and Commercial Relations shall be deemed to be a reference to the Minister or Deputy Minister of Financial Institutions, so long as the Minister of Financial Institutions administers such Act or provision, and a reference therein to the Ministry of Consumer and Commercial Relations shall be deemed to be a reference to the Ministry of Financial Institutions.

Saving
R.S.O. 1980,
c. 274

(2) Nothing in this Act invalidates any regulation, ministerial order, act or thing made or done under the *Ministry of Consumer and Commercial Relations Act* or under any other Act for which the Minister of Consumer and Commercial Relations was responsible before this Act received Royal Assent.

18. Subsection 142 (2) of the *Co-operative Corporations Act*, being chapter 91 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Information
not to be
disclosed

(2) The Minister or any employee in the Ministry shall not disclose any information contained in a return made under subsection (1), except,

(a) as may be required in connection with the administration or enforcement of this Act or any Act

(4) Est irrecevable la poursuite intentée relativement à une infraction à la présente loi plus de deux ans après que les faits sur lesquels elle se fonde ont été portés en premier lieu à la connaissance du ministre. Prescription

(5) En cas de condamnation pour une infraction aux termes de l'article 12, le montant de la subvention ou du prêt à l'égard duquel l'infraction a été commise, ainsi que les intérêts qui s'y rapportent, sont réputés une dette payable à la Couronne et peuvent être recouvrés au moyen d'une action intentée devant un tribunal compétent. Remboursement d'un prêt ou d'une subvention

16 (1) Le lieutenant-gouverneur en conseil peut autoriser le ministère à posséder et utiliser un sceau. Sceau

(2) Le sceau peut être gravé, lithographié, imprimé ou reproduit par un autre moyen mécanique. Il a alors la même valeur que s'il était apposé manuellement. Idem

17 (1) Sauf si le contexte exige une interprétation contraire, dans une loi qui figure à l'annexe ou dans un règlement, un décret, un arrêté ministériel ou un autre document, acte ou chose pris ou fait en application de cette loi ou de cette disposition, une mention du ministre ou du sous-ministre de la Consommation et du Commerce est réputée une mention du ministre ou du sous-ministre des Institutions financières, tant que l'application de cette loi ou disposition relève du ministre des Institutions financières. De même, une mention du ministère de la Consommation et du Commerce est réputée une mention du ministère des Institutions financières. Mention du ministre et du ministère

(2) Aucune disposition de la présente loi n'a pour effet d'invalider un règlement, un arrêté ministériel, un acte ou une chose pris ou fait en application de la *Loi sur le ministère de la Consommation et du Commerce* ou en vertu d'une autre loi dont l'application relevait du ministre de la Consommation et du Commerce avant que la présente loi ne reçoive la sanction royale. Exception

L.R.O. 1980,
chap. 274

18 Le paragraphe 142 (2) de la *Loi sur les coopératives*, qui constitue le chapitre 91 des *Lois refondues de l'Ontario de 1980*, est abrogé et remplacé par ce qui suit :

(2) The Minister or any employee in the Ministry shall not disclose any information contained in a return made under subsection (1), except, Information not to be disclosed

(a) as may be required in connection with the administration or enforcement of this Act or any Act

administered by the Minister or the Minister of Consumer and Commercial Relations;

- (b) to his or her counsel;
- (c) with the consent of the co-operative to which the information relates;
- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

19.—(1) Clause 6 (a) of the *Deposits Regulation Act*, being chapter 116 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister of Financial Institutions or the Minister of Consumer and Commercial Relations; or

(2) Section 6 of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clauses:

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that is unlawful under any Act administered by the Minister of Financial Institutions or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

20.—(1) Subsection 2 (1) of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by striking out “A Superintendent of Insurance shall be appointed” in the first line and inserting in lieu thereof “The Lieutenant Governor in Council shall appoint a Superintendent of Insurance”.

administered by the Minister or the Minister of Consumer and Commercial Relations;

- (b) to his or her counsel;
- (c) with the consent of the co-operative to which the information relates;
- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.*

19 (1) L'alinéa 6 (a) de la *Loi sur les dépositaires d'argent*, qui constitue le chapitre 116 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister of Financial Institutions or the Minister of Consumer and Commercial Relations; or*

.

(2) L'article 6 de la loi est modifié par adjonction du mot «or» à la fin de l'alinéa (c) et par adjonction des alinéas suivants :

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that is unlawful under any Act administered by the Minister of Financial Institutions or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.*

20 (1) Le paragraphe 2 (1) de la *Loi sur les assurances*, qui constitue le chapitre 218 des Lois refondues de l'Ontario de 1980, est modifié par substitution, à «A Superintendent of Insurance shall be appointed» à la première ligne, de «The Lieutenant Governor in Council shall appoint a Superintendent of Insurance».

(2) Section 2 of the said Act is amended by adding thereto the following subsection:

Deputy
Superin-
tendent

(1a) The Lieutenant Governor in Council may appoint one or more persons to be Deputy Superintendent of Insurance.

21.—(1) Clause 1 (e) of the *Ministry of Consumer and Commercial Relations Act*, being chapter 274 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(e) “Registrar” means the Registrar under an Act administered by the Minister.

(2) Paragraphs 3, 4, 5, 6, 7, 8, 9, 11 and 13 of section 4 of the said Act are repealed.

22.—(1) Clause 1 (1) (b) of the *Mortgage Brokers Act*, being chapter 295 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 3 (2) of the said Act is amended by striking out “under the supervision of the Director” in the third line.

(3) Sections 24, 26, 30, 31 and 32 of the said Act are amended by striking out “Director” wherever that word occurs and inserting in lieu thereof in each instance “Registrar”.

(4) Clause 25 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or

(5) Subsection 25 (1) of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clauses:

(d) to a peace officer for law enforcement purposes; or

(e) to a victim of conduct that is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a per-

(2) L'article 2 de la loi est modifié par adjonction du paragraphe suivant :

(1a) The Lieutenant Governor in Council may appoint one or more persons to be Deputy Superintendent of Insurance.*

Deputy
Superin-
tendent

21 (1) L'alinéa 1 (e) de la *Loi sur le ministère de la Consommation et du Commerce*, qui constitue le chapitre 274 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

(e) «Registrar» means the Registrar under an Act administered by the Minister.*

(2) Les dispositions 3, 4, 5, 6, 7, 8, 9, 11 et 13 de l'article 4 de la loi sont abrogées.

22 (1) L'alinéa 1 (1) (b) de la *Loi sur les courtiers en hypothèques*, qui constitue le chapitre 295 des Lois refondues de l'Ontario de 1980, est abrogé.

(2) Le paragraphe 3 (2) de la loi est modifié par suppression des mots «under the supervision of the Director» à la troisième ligne.

(3) Les articles 24, 26, 30, 31 et 32 de la loi sont modifiés par substitution, à «Director» partout où ce mot apparaît, du mot «Registrar».

(4) L'alinéa 25 (1) (a) de la loi est abrogé et remplacé par ce qui suit :

(a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or*

(5) Le paragraphe 25 (1) de la loi est modifié par adjonction du mot «or» à la fin de l'alinéa (c) et par adjonction des alinéas suivants :

(d) to a peace officer for law enforcement purposes; or

(e) to a victim of conduct that is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably

son likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

(6) Subsection 27 (3) of the said Act is amended by striking out “with the approval of the Director” in the second line.

23.—(1) Clause 26 (1) (a) of the *Registered Insurance Brokers Act*, being chapter 444 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or

(2) Subsection 26 (1) of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clauses:

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

Commence-
ment

24. This Act shall be deemed to have come into force on the 1st day of April, 1986.

Short title

25. The short title of this Act is the *Ministry of Financial Institutions Act, 1986*.

necessary for the protection of the victim or potential victim.*

(6) Le paragraphe 27 (3) de la loi est modifié par suppression des mots «with the approval of the Director» à la deuxième ligne.

23 (1) L'alinéa 26 (1) (a) de la *Loi sur l'inscription des courtiers d'assurances*, qui constitue le chapitre 444 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or*

(2) Le paragraphe 26 (1) de la loi est modifié par adjonction du mot «or» à la fin de l'alinéa (c) et par adjonction des alinéas suivants :

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.*

24 La présente loi est réputée être entrée en vigueur le 1^{er} avril 1986. Entrée en vigueur

25 Le titre abrégé de la présente loi est *Loi de 1986 sur le ministère des Institutions financières*. Titre abrégé

*Les lois modifiées n'ayant été promulguées qu'en anglais, il n'existe pas de texte français exigeant une modification législative.

Because the amended statutes were enacted only in English, there is no French text to amend.

SCHEDULE

Central Trust Company Act, 1983
Commodity Futures Act
Compulsory Automobile Insurance Act
Co-operative Corporations Act
Credit Unions and Caisses Populaires Act
Crown Trust Company Act, 1983
Deposits Regulation Act
Guarantee Companies Securities Act
Insurance Act
Investment Contracts Act
Loan and Trust Corporations Act
Marine Insurance Act
Mortgage Brokers Act
Motor Vehicle Accident Claims Act
Ontario Credit Union League Limited Act, 1972
Ontario Deposit Insurance Corporation Act
Pension Benefits Act
Prepaid Hospital and Medical Services Act
Registered Insurance Brokers Act
Securities Act
Toronto Futures Exchange Act, 1983
Toronto Stock Exchange Act, 1982

ANNEXE

Loi sur l'assurance-automobile obligatoire

Loi sur l'assurance maritime

Loi sur les assurances

Loi de 1982 sur la Bourse de Toronto

Loi sur les caisses populaires et les credit unions

Loi de 1983 sur la compagnie Central Trust

Loi de 1983 sur la compagnie Crown Trust

Loi sur les compagnies de cautionnement

Loi sur les compagnies de prêt et de fiducie

Loi sur les contrats de placement

Loi sur les coopératives

Loi sur les courtiers en hypothèques

Loi sur les dépositaires d'argent

Loi sur l'indemnisation des victimes d'accidents d'automobiles

Loi sur l'inscription des courtiers d'assurances

Loi de 1983 sur les marchés à terme de la Bourse de Toronto

Loi de 1972 sur le Ontario Credit Union League Limited

Loi sur les régimes de retraite

Loi sur les services hospitaliers et médicaux prépayés

Loi sur la Société ontarienne d'assurance-dépôt

Loi sur les valeurs mobilières

Loi sur la vente à terme de marchandises

Bill 181

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	December 17th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

The Bill deals with the retirement of provincially appointed judges.

Section 54 of the Act as currently worded requires these judges to retire at the age of sixty-five. (Different rules apply to judges appointed before 1968.) However, they may continue to work full-time or part-time until the age of seventy-five, under a system of discretionary annual extensions.

The proposed new version of section 54 sets a retirement age of seventy and eliminates the system of discretionary annual extensions. Judges aged between sixty-five and seventy are entitled to work part-time instead of full-time if they obtain the approval of the Chief Judge.

Judges in office who are already seventy or older are protected by a transitional provision.

A complementary amendment is made to section 65.

Bill 181

1986

An Act to amend the Courts of Justice Act, 1984

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 54 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:

54.—(1) Every provincial judge shall retire upon attaining the age of seventy years. Retirement
at seventy

(2) A provincial judge who has attained the age of sixty-five years and who does not wish to continue to hold office full-time may, upon obtaining the approval of the Chief Judge, continue to hold office part-time until the judge attains the age of seventy years. Judge may
hold office
part-time
after
sixty-five

(3) Subsections (1) and (2) apply whether the provincial judge was appointed before or after the day this section comes into force. Application
of
subss. (1, 2)

(4) A provincial judge who holds office and is aged seventy years or more on the day this section comes into force may, with the annual approval of the Judicial Council, continue to hold office full-time or part-time until he or she attains the age of seventy-five years. Transition

(5) A chief judge, associate chief judge or senior judge who holds office and is aged seventy years or more on the day this section comes into force may, with the annual approval of the Judicial Council, continue to hold office until he or she attains the age of seventy-five years. Idem

(6) Subsections (2) and (4) do not apply to a chief judge, associate chief judge or senior judge. Application
of
subss. (2, 4)

2. Section 65 of the said Act is repealed and the following substituted therefor:

Chief judge,
etc., may
choose to
revert to
office of
judge

65. A chief judge, associate chief judge or senior judge who has attained the age of sixty-five years or who has held one or more of those offices for at least five years may, on giving notice to the Attorney General, cease to perform the duties of his or her office and resume the functions of a provincial judge only.

Commence-
ment

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

4. The short title of this Act is the *Courts of Justice Amendment Act, 1986*.

Bill 182

An Act to provide for a Basic Residential Power Rate Applicable to the Essential Energy Needs of Residential Households in Ontario

Mr. Sargent

1st Reading December 17th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for the establishment of a basic residential rate for electrical power usage by residential households in Ontario. The basic residential rate is applied to the amount of electrical power required by a typical residential household to fulfil minimum essential energy needs. The proposed amendments to the *Ontario Energy Board Act* require the Board to determine those functions that constitute the minimum essential energy needs of a residential household in Ontario. Each municipal corporation that distributes electrical power must establish a basic residential rate on the basis of the electrical power demand required in its service area to fulfil the minimum energy needs. The Bill sets a maximum level for the basic residential rate and stipulates that the basic residential rate must be the lowest rate for electrical power usage charged by the corporation.

Bill 182

1986

**An Act to provide for a Basic Residential Power Rate
Applicable to the Essential Energy Needs of
Residential Households in Ontario**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

PART I

THE ONTARIO ENERGY BOARD ACT

1. The *Ontario Energy Board Act*, being chapter 332 of the
Revised Statutes of Ontario, 1980, is amended by adding
thereto the following section:

37a.—(1) The Board shall examine into and determine
the minimum essential electrical needs of residents of Ontario
and, on or before the 1st day of January, 1985, the Board
shall make a report to the Minister listing the functions that
constitute the minimum essential electrical needs of a typical
residential household in Ontario.

Minimum
essential
electrical
needs

(2) Upon determination of the minimum essential electrical
needs referred to in subsection (1), every municipal electric
utility commission and every municipal corporation that dis-
tributes electrical power in Ontario shall determine the basic
demand for electrical energy required to fulfil the minimum
essential electrical needs of a typical residential household
located in the area to which it distributes electrical power.

Basic
demand for
electrical
power

(3) Every commission and corporation that makes a deter-
mination under subsection (2) shall report the determination
to the Board and the Board may review and alter the determi-
nation where the Board considers it proper.

Report to
Board

PART II

THE POWER CORPORATION ACT

2. The *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Basic
residential
rate

95b.—(1) Notwithstanding section 95, any municipal corporation that charges a rate for the distribution of electrical power shall establish a basic residential rate for residential households in the corporation's service area and the basic residential rate shall be applied to that amount of electrical power demand that is equal to the basic demand for electrical energy as determined under section 37a of the *Ontario Energy Board Act*.

R.S.O. 1980,
c. 332

Maximum
rate

(2) The basic residential rate referred to in subsection (1) shall not exceed the residential rate chargeable immediately prior to the 1st day of January, 1975, plus 50 per cent of any rate increase from the 1st day of January, 1975, to the 1st day of January, 1984.

Basic
residential
rate to be
lowest rate

(3) The basic residential rate charged by a municipal corporation shall be the lowest rate charged by the corporation to any of its customers and a corporation shall not, by means of a discount or otherwise, supply electrical power to a customer at a cost lower than the cost incurred by a person paying the basic residential rate.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Lifeline Act, 1986*.

Bill 183

An Act to confirm a certain Agreement between the Governments of Canada and Ontario

The Hon. V. Kerrio
Minister of Natural Resources

1st Reading December 18th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

In 1924 an agreement was entered into between the Dominion of Canada and the Province of Ontario in respect of certain Indian Lands. The agreement was incorporated into *The Indian Lands Act, 1924*. Now, a sequel to that agreement was entered into and is set out in Schedule A to the Bill. The 1986 agreement provides that it comes into force when confirmed by the Parliament of Canada and the Legislature of Ontario. The Bill is to provide the confirmation by Ontario.

Bill 183

1986

An Act to confirm a certain Agreement between the Governments of Canada and Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The 1986 Indian Lands Agreement, reproduced as Schedule A, is hereby confirmed. Agreement confirmed
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Indian Lands Agreement Confirmation Act, 1986*. Short title

SCHEDULE A

Memorandum of Agreement made this 5th day of August, 1986.

Between:

THE GOVERNMENT OF CANADA as represented by the Minister of Indian and Northern Affairs for Canada (hereinafter referred to as Canada)

—and—

THE GOVERNMENT OF THE PROVINCE OF ONTARIO as represented by the Minister of Natural Resources for the Province of Ontario (hereinafter referred to as Ontario)

This agreement witnesseth that the parties hereto have agreed as follows:

1. Definitions

- (a) "Band", "Council of the Band", "Surrender", "Custom" and "Indian" have the same meaning as those words in the *Indian Act*, R.S.C. 1970, c.I-6, as the same may be amended from time to time;
- (b) "land" includes any interest in land;
- (c) "minerals" includes gold, silver and all other metals, precious and base, and coal, natural gas, oil, salt, sand and gravel;

(d) "1924 Agreement" means the agreement between Canada and Ontario dated March 24, 1924, and the statutes confirming it, i.e., Statutes of Canada, 14-15 George V, chapter 48, and Statutes of Ontario, 14 George V, chapter 15.

2. Ontario, Canada, and any band or group of bands may enter into specific agreements. Any one or more Bands may enter into one or more specific agreements.

3. A specific agreement may be entered into with respect to any matter or question relating to lands or natural resources, including any of the following:

- (a) any matter dealt with in the 1924 Agreement;
- (b) administration and control;
- (c) the exercise, allocation or transfer or disposal of any interests in lands or natural resources;
- (d) minerals, mineral rights and royalties, and the disposition or taxation of any of them;
- (e) hydro powers;
- (f) disposition of lands or natural resources;
- (g) consequences of extinction or enfranchisement of a band;
- (h) disposition of any monies;
- (i) the non-applicability of any provision or provisions of the 1924 Agreement;
- (j) any other provision required for the implementation of a specific agreement.

4. The provisions of any specific agreement shall have effect upon confirmation. In the event of any inconsistency with the 1924 Agreement, the specific agreement shall supercede.

5. Neither this Agreement nor any specific agreement shall affect the validity of any treaty or surrender.

6. Canada and Ontario may enter into an agreement or agreements for the confirmation of patents issued or other dispositions of land by the other with respect to land, but no such agreement or confirmation shall in any way affect the rights of any band or the recourse which any band would, absent such agreement, have against any person or land, including the Crown and Crown lands.

7. If Canada has collected money or collects money on behalf of any band or bands pursuant to sales or other dispositions of land or interests in land, Ontario acknowledges that Canada may continue to administer that money for the use and benefit of the band or bands, but in no case shall money collected by Canada expressly on behalf of Ontario be deemed to be money collected by Canada on behalf of a band or bands.

8. This Agreement shall come into force when it is confirmed by the Parliament of Canada and the Legislature of Ontario and such confirmations come into force.

9. A specific agreement shall come into force when it is confirmed by Orders-in-Council of both Canada and Ontario and is confirmed by the band.

10. Confirmation by a band of a specific agreement shall take place:

- (a) by a Referendum conducted pursuant to regulations made by the Governor General-in-Council under the authority of the Act of Parliament implementing this Agreement; or
- (b) pursuant to the band's custom or constitution, provided that the Council of the band gives written notification to the Minister of Indian Affairs and Northern Development and to the Minister of Natural Resources for Ontario that confirmation took place pursuant to the band's custom or constitution, as the case may be.

11. Where a specific agreement affects or deals with lands, lands affected shall be described in a schedule to the specific agreement.

12. No specific agreement entered into by any band shall be binding upon any other band or have any effect on any other band unless it has been confirmed by that other band.

13. A specific agreement may be amended by the parties or their successors in the same manner as it was originally made.

IN WITNESS WHEREOF the said parties hereto have set their hands and seals.

SIGNED, SEALED AND DELIVERED
in the presence of

P. Francoeur
as to the execution of

Minister of Indian and
Northern Affairs

Adair Ireland-Smith
as to the execution of

Minister of Natural
Resources

Bill McKnight
Minister of Indian and
Northern Affairs for
Canada

Vincent G. Kerrio
Minister of Natural
Resources for the
Province of Ontario

Bill 184

An Act to amend the Retail Business Holidays Act

The Hon. I. Scott

Attorney General

1st Reading December 18th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The proposed subsection 2 (3) of the Act will prohibit persons who carry on retail businesses in retail business establishments and persons acting on their behalf from counselling or requiring anyone to contravene subsection 2 (2) of the Act which prohibits anyone from selling goods in a retail business establishment on a holiday.

SECTION 2. The proposed section 8 of the Act will enable the Solicitor General to obtain court orders to restrain contraventions of the Act.

Bill 184

1986

An Act to amend the Retail Business Holidays Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(3) No person carrying on a retail business in a retail business establishment, and no person acting on behalf of such a person, shall counsel or require any person to contravene subsection (2). Counselling
contra-
vention, etc.

2. The said Act is amended by adding thereto the following section:

8.—(1) Upon the application of counsel for the Solicitor General to the Supreme Court, the court may make any order that is necessary to ensure compliance with this Act by a party named in the application. Court
orders

(2) An order under subsection (1) is in addition to any penalty that may be imposed under section 7 and may be made whether or not proceedings have been commenced in the Provincial Offences Court for a contravention of section 2. Idem

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Retail Business Holidays Amendment Act, 1986*. Short title

Bill 185

An Act to amend the Employment Standards Act

The Hon. W. Wrye
Minister of Labour

1st Reading December 18th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to protect employees who refuse to contravene subsection 2 (2) of the *Retail Business Holidays Act*.

Bill 185

1986

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART XI-B

RETAIL BUSINESS ESTABLISHMENTS

39e. An employee may refuse any work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act*.

Right to
refuse work
R.S.O. 1980,
c. 453

39f.—(1) Where an employer dismisses an employee who refuses any work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act*, an employment standards officer may order the employer to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits in an amount not exceeding \$4,000 that may be assessed by the employment standards officer against the employer.

Employment
standards
officer may
make order

2. Subsection 50 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3, is further amended by inserting after “39c” in the second line “39f”.

3. Subsection 53 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 4, is further amended by inserting after “39c” in the second line “39f”.

4. Subsection 57 (1) of the said Act is amended by adding thereto the following clause:

(ea) has exercised a right to refuse work under section 39e.

Commence-
ment

5. This Act shall be deemed to have come into force on the 18th day of December, 1986.

Short title

6. The short title of this Act is the *Employment Standards Amendment Act, 1986*.

Bill 186

An Act to amend the Election Finances Act, 1986

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading January 12th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The amendment to the definition of "campaign expense" provides that child care expenses and such other expenses of a non-partisan nature as may be set out in guidelines issued by the Commission on Election Finances will not be included as campaign expenses for the purposes of the Act.

SECTION 2.—Subsection 1. Clause 4 (1) (k) sets out some of the powers and duties of the Commission and is set out below showing underlined the words added by the amendment:

(k) *publish, in respect of each campaign period, a joint summary of the income, campaign expenses and subsidy of each candidate, together with the income and campaign expenses of the constituency association endorsing the candidacy of that candidate, in a newspaper or newspapers having a general circulation in the electoral district in which the candidate stood for election.*

Subsection 2. Clause 4 (1) (j) directs the Commission to provide guidelines for the proper administration of the Act for the guidance of auditors, political parties, constituency associations, candidates and leadership contestants. The subsections proposed to be added provide for the publication of the guidelines in *The Ontario Gazette* and emphasize their force and effect.

SECTION 3. Section 14 of the Act requires the Commission to maintain a register of candidates in relation to each election setting out certain information in respect of each candidate. The subsection proposed to be added requires a candidate to notify the Commission of any alteration in that information and requires the Commission in such case to vary the register accordingly.

SECTION 4. The amendment proposed to section 15 of the Act is to the same effect as the amendment set out in section 3 of the Bill and is in respect of the register of leadership contestants maintained by the Commission when a leadership convention is held.

SECTION 5. Subsection 23 (5) of the Act now reads as follows:

(5) *All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the person, corporation or trade union authorizing the political advertising.*

The effect of the proposed re-enactment is to broaden its scope so as to require the identification of a constituency association or political party that authorizes political advertising.

Bill 186

1987

An Act to amend the Election Finances Act, 1986

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The definition of “campaign expense” in subsection 1 (1) of the *Election Finances Act, 1986*, being chapter 33, is amended by striking out “and” at the end of clause (i), by adding “and” at the end of clause (j) and by adding thereto the following clause:

- (k) child care expenses of a candidate and other expenses not of partisan value that are set out in guidelines provided by the Commission under clause 4 (1) (j),

2.—(1) Clause 4 (1) (k) of the said Act is amended by inserting after “income” in the second line “campaign” and by inserting after “and” in the third line “campaign”.

(2) Section 4 of the said Act is amended by adding thereto the following subsections:

(4) The Commission shall publish in *The Ontario Gazette* all guidelines provided by the Commission under clause (1) (j). Publication of guidelines by Commission

(5) The provisions of this Act respecting contributions or campaign expenses shall be applied in conformity with guidelines in respect thereof provided by the Commission under clause (1) (j). Application of guidelines

3. Section 14 of the said Act is amended by adding thereto the following subsection:

(7) Where any of the information referred to in clauses (3) (b) to (h) is altered, the candidate shall forthwith notify in writing the Commission of any such alteration, and upon Variation of register

receipt of any such notice, the Commission shall vary the register of candidates accordingly.

4. Section 15 of the said Act is amended by adding thereto the following subsection:

Variation
of register

(6) Where any of the information referred to in clauses (3) (b) to (f) is altered, the leadership contestant shall forthwith notify in writing the Commission of such alteration, and upon receipt of any such notice, the Commission shall vary the register of leadership contestants accordingly.

5. Subsection 23 (5) of the said Act is repealed and the following substituted therefor:

Reference to
person, etc.,
authorizing
advertising

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the registered constituency association, registered political party, person, corporation or trade union authorizing the political advertising.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Election Finances Amendment Act, 1987*.

Bill 186

An Act to amend the Election Finances Act, 1986

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading January 12th, 1987

2nd Reading January 27th, 1987

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The amendments are designed to make it clear that “campaign expenses” refers, with certain specified exceptions, to expenses incurred for goods or services (including the value of goods held in inventory, fees or expenses for services and contributions of goods and services) for use in whole or in part during the period commencing with the issue of a writ for an election and terminating on polling day and to provide that child care expenses and such other expenses of a non-partisan nature as may be set out in guidelines issued by the Commission on Election Finances will not be included as campaign expenses for the purposes of the Act.

SECTION 2.—Subsection 1. Clause 4 (1) (k) sets out some of the powers and duties of the Commission and is set out below showing underlined the words added by the amendment:

(k) publish, in respect of each campaign period, a joint summary of the income, campaign expenses and subsidy of each candidate, together with the income and campaign expenses of the constituency association endorsing the candidacy of that candidate, in a newspaper or newspapers having a general circulation in the electoral district in which the candidate stood for election.

Subsection 2. Clause 4 (1) (j) directs the Commission to provide guidelines for the proper administration of the Act for the guidance of auditors, political parties, constituency associations, candidates and leadership contestants. The subsections proposed to be added provide for the publication of the guidelines in *The Ontario Gazette* and emphasize their force and effect.

SECTION 3. Section 14 of the Act requires the Commission to maintain a register of candidates in relation to each election setting out certain information in respect of each candidate. The subsection proposed to be added requires a candidate to notify the Commission of any alteration in that information and requires the Commission in such case to vary the register accordingly.

SECTION 4. The amendment proposed to section 15 of the Act is to the same effect as the amendment set out in section 3 of the Bill and is in respect of the register of leadership contestants maintained by the Commission when a leadership convention is held.

SECTION 5. Subsection 23 (5) of the Act now reads as follows:

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the person, corporation or trade union authorizing the political advertising.

The effect of the proposed re-enactment is to broaden its scope so as to require the identification of a constituency association or political party that authorizes political advertising.

Bill 186

1987

An Act to amend the Election Finances Act, 1986

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:



1. The definition of “campaign expense” in subsection 1 (1) of the *Election Finances Act, 1986*, being chapter 33, is amended,

- (a) by inserting after “incurred” in the first line “for goods or services” and by inserting after “Act” in the third line “for use in whole or in part”;
- (b) by striking out “and” at the end of clause (i), by adding “and” at the end of clause (j) and by adding thereto the following clause:
 - (k) child care expenses of a candidate and other expenses not of partisan value that are set out in guidelines provided by the Commission under clause 4 (1) (j).
- (c) by striking out “but shall be deemed to include the value of any goods held in inventory for any candidate for use during a campaign period” in the twenty-third, twenty-fourth and twenty-fifth lines and inserting in lieu thereof “but shall be deemed to include the value of any goods held in inventory or any fees or expenses for services for any candidate or political party, and any contribution of goods and services to the political party, constituency association or candidate registered under this Act, for use in whole or in part during the period commencing with the issue of the writ for an election and terminating on polling day”.



2.—(1) Clause 4 (1) (k) of the said Act is amended by inserting after “income” in the second line “campaign” and by inserting after “and” in the third line “campaign”.

(2) Section 4 of the said Act is amended by adding thereto the following subsections:

Publication
of guidelines
by
Commission

(4) The Commission shall publish in *The Ontario Gazette* all guidelines provided by the Commission under clause (1) (j).

Application
of guidelines

(5) The provisions of this Act respecting contributions or campaign expenses shall be applied in conformity with guidelines in respect thereof provided by the Commission under clause (1) (j).

3. Section 14 of the said Act is amended by adding thereto the following subsection:

Variation
of register

(7) Where any of the information referred to in clauses (3) (b) to (h) is altered, the candidate shall forthwith notify in writing the Commission of any such alteration, and upon receipt of any such notice, the Commission shall vary the register of candidates accordingly.

4. Section 15 of the said Act is amended by adding thereto the following subsection:

Variation
of register

(6) Where any of the information referred to in clauses (3) (b) to (f) is altered, the leadership contestant shall forthwith notify in writing the Commission of such alteration, and upon receipt of any such notice, the Commission shall vary the register of leadership contestants accordingly.

5. Subsection 23 (5) of the said Act is repealed and the following substituted therefor:

Reference to
person, etc.,
authorizing
advertising

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the registered constituency association, registered political party, person, corporation or trade union authorizing the political advertising.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Election Finances Amendment Act, 1987*.

Bill 186

*(Chapter 5
Statutes of Ontario, 1987)*

An Act to amend the Election Finances Act, 1986

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	January 12th, 1987
<i>2nd Reading</i>	January 27th, 1987
<i>3rd Reading</i>	February 2nd, 1987
<i>Royal Assent</i>	February 3rd, 1987

Bill 186**1987****An Act to amend the Election Finances Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The definition of “campaign expense” in subsection 1 (1) of the *Election Finances Act, 1986*, being chapter 33, is amended,

- (a) by inserting after “incurred” in the first line “for goods or services” and by inserting after “Act” in the third line “for use in whole or in part”;
- (b) by striking out “and” at the end of clause (i), by adding “and” at the end of clause (j) and by adding thereto the following clause:
 - (k) child care expenses of a candidate and other expenses not of partisan value that are set out in guidelines provided by the Commission under clause 4 (1) (j).
- (c) by striking out “but shall be deemed to include the value of any goods held in inventory for any candidate for use during a campaign period” in the twenty-third, twenty-fourth and twenty-fifth lines and inserting in lieu thereof “but shall be deemed to include the value of any goods held in inventory or any fees or expenses for services for any candidate or political party, and any contribution of goods and services to the political party, constituency association or candidate registered under this Act, for use in whole or in part during the period commencing with the issue of the writ for an election and terminating on polling day”.

2.—(1) Clause 4 (1) (k) of the said Act is amended by inserting after “income” in the second line “campaign” and by inserting after “and” in the third line “campaign”.

(2) Section 4 of the said Act is amended by adding thereto the following subsections:

Publication
of guidelines
by
Commission

(4) The Commission shall publish in *The Ontario Gazette* all guidelines provided by the Commission under clause (1) (j).

Application
of guidelines

(5) The provisions of this Act respecting contributions or campaign expenses shall be applied in conformity with guidelines in respect thereof provided by the Commission under clause (1) (j).

3. Section 14 of the said Act is amended by adding thereto the following subsection:

Variation
of register

(7) Where any of the information referred to in clauses (3) (b) to (h) is altered, the candidate shall forthwith notify in writing the Commission of any such alteration, and upon receipt of any such notice, the Commission shall vary the register of candidates accordingly.

4. Section 15 of the said Act is amended by adding thereto the following subsection:

Variation
of register

(6) Where any of the information referred to in clauses (3) (b) to (f) is altered, the leadership contestant shall forthwith notify in writing the Commission of such alteration, and upon receipt of any such notice, the Commission shall vary the register of leadership contestants accordingly.

5. Subsection 23 (5) of the said Act is repealed and the following substituted therefor:

Reference to
person, etc.,
authorizing
advertising

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the registered constituency association, registered political party, person, corporation or trade union authorizing the political advertising.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Election Finances Amendment Act, 1987*.

Bill 187

An Act to proclaim Martin Luther King Jr. Day

Mr. Shymko

1st Reading January 13th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill 187

1987

An Act to proclaim Martin Luther King Jr. Day

Whereas Dr. Martin Luther King Jr. made major contributions to the civil rights movement in the United States; and whereas those contributions have been of great benefit to people of all races not just in the United States but in many other countries of the world including Canada; and whereas black persons have made significant contributions to Ontario and its culture; and whereas it is desirable to recognize the contributions of black persons to Ontario and to encourage respect for the civil rights of all persons in Ontario;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The third Monday of January in each year is proclaimed to be Martin Luther King Jr. Day.

Martin
Luther
King
Jr. Day

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Martin Luther King Jr. Day Act, 1987*.

Short title

Bill 188

An Act to amend the Retail Business Holidays Act

Mr. Ashe

1st Reading January 15th, 1987

2nd Reading

3rd Reading

Royal Assent

Bill

EXPLANATORY NOTE

The Bill would allow all retail establishments that sell only books, newspapers or periodicals and all art galleries to be open on Sunday and other public holidays.

Bill 188

1987

An Act to amend the Retail Business Holidays Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subclause 3 (1) (a) (ii) of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, is amended by striking out “newspapers or periodicals, or” in the first line.

(2) Subsection 3 (3) of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clause:

(d) books, newspapers or periodicals.

(3) Section 3 of the said Act is amended by adding thereto the following subsection:

(3a) Section 2 does not apply in respect of the carrying on of a retail business on a holiday in an art gallery. Idem, art galleries

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Retail Business Holidays Amendment Act, 1987*. Short title

Bill 189

An Act to amend the Mining Tax Act

The Hon. R. Nixon
Minister of Revenue

1st Reading January 28th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Treasurer's Budget of October 24, 1985, and amends the *Mining Tax Act* to simplify the administrative provisions and parallel the administrative provisions in other Ontario taxing statutes.

SECTION 1.—Subsections 1 to 8. The amendments to section 1 of the Act provide definitions for various terms to be used in the Act as amended by the Bill and in particular,

- (a) provide that the determination of whether corporate operators are associated will no longer be at the discretion of the Minister but will be determined under the rules applicable for income tax purposes;
- (b) include expenses incurred in connection with "farm-in" arrangements in the definition of exploration and development expenditures;
- (c) include tailings in the definition of mineral substance;
- (d) provide for definitions in the Act of mining assets, processing assets, proceeds and hedging;
- (e) include the manufacturing in Canada of non-metallic mineral substances in the definition of processing;
- (f) define an operator who will be subject to tax under the Act to include a member of a joint venture, a partner in a partnership and a beneficiary of a trust, other than a person whose only right is to receive royalties; and
- (g) define the Minister to be the Minister of Revenue, consequential upon the transfer of the administration of the Act to the Minister of Revenue.

Subsection 9. The enactment of subsection 1 (2) of the Act retains the provisions of subsection 3 (16) of the Act, which is repealed by the Bill, in order to provide that the rules applicable for income tax purposes in determining whether persons are dealing at arm's length will continue to apply for the purposes of the Act.

SECTION 2. The re-enactment of section 2 provides that taxes will no longer accrue on the last day of a taxation year but proportionately over the taxation year, while the estimated amount of tax payable for the year will continue to be payable not later than two months after the end of the taxation year and any balance determined when the tax return is prepared will continue to be payable when the tax return is required to be filed under the Act.

SECTION 3. The re-enactment of subsections 3 (1) to (14) and the repeal of subsections 3 (15) and (16) of the Act imposes mining tax on an operator's profit from all mines in which the operator has an interest and provides for the calculation of the operator's profit for the taxation year as follows:

1. Subsection 3 (1) implements the Treasurer's Budget proposal of imposing a flat rate of mining tax of 20 per cent on an operator's total mining profit in excess of \$500,000, instead of the current graduated rates of 15 to 30 per cent on profits in excess of \$250,000.
2. Subsection 3 (2) requires operators which are associated corporations to share the \$500,000 annual exemption from mining tax.
3. Subsection 3 (3) reduces the \$500,000 annual exemption from mining tax where the operator has only a part interest in a mine.

4. Subsection 3 (4) reduces the \$500,000 exemption from mining tax on a *pro rata* basis if the mine is out of production sixty or more consecutive days in the year.
5. Subsection 3 (5) provides for the determination of an operator's profit from all mines in which the operator has an interest by deducting from the operator's proceeds from the sale of raw and processed mineral substances certain expenses including mining expenses, operating expenses relating to social assets, scientific research expenses, donations for charitable or educational purposes reasonably related to mining operations in Ontario, amounts in respect of exploration and development expenditures, depreciation of mining and processing assets and a processing allowance.
6. Subsection 3 (6) provides in the Act for the calculation of an operator's maximum depreciation deduction for the taxation year in respect of mining and processing assets at the same rates of depreciation currently in the Act and the regulations made under the Act.
7. Subsection 3 (7) provides for the calculation of the maximum amount deductible by an operator for a taxation year in respect of exploration and development expenditures. Deductible exploration and development expenditures will be net of amounts eligible under the *Ontario Mineral Exploration Program Act*, the amount of government assistance received in respect of the exploration and development (other than OMEP grants and credits) and amounts renounced in favour of another person under the *Income Tax Act* (Canada), but will include exploration and development expenditures incurred by another person if they have been renounced and transferred for income tax purposes to the operator.
8. Subsection 3 (8) parallels generally accepted accounting principles and the capital cost allowance system under the *Income Tax Act* (Canada) and the *Corporations Tax Act* in requiring the deduction of government assistance in respect of depreciable property from the cost of the property to ensure that an operator claims depreciation expense with respect to only that portion of the cost of the depreciable property funded by the operator.
9. Subsection 3 (9) continues to disallow the deduction of the expenses and outlays currently listed in subsection 3 (11) of the Act and disallows the deduction from an operator's profit of income taxes and capital taxes.
10. Subsection 3 (10) amalgamates and incorporates in the Act the definition of undepreciated capital cost of depreciable property currently in the Act and the regulations made under the Act.
11. Subsection 3 (11) amalgamates and incorporates in the Act the provisions currently in the Act and the regulations made under the Act requiring the inclusion in profit of recaptured depreciation.
12. Subsection 3 (12) provides that on transfers of property between parties not dealing at arm's length, the cost of the property to the purchaser and the proceeds of disposition to the vendor for the purposes of the Act will no longer be at the discretion of the Minister but will be fair market value in the case of non-depreciable property and at the amount currently prescribed by regulation in the case of depreciable property.
13. Subsections 3 (13) and (14) provide that where output is sold to a non-arm's length purchaser, the operator will be deemed to have received the fair market value of the output and where an operator acquires goods or services from a non-arm's length supplier at a price in excess of the fair market value of the goods or services, the operator may not deduct an amount in excess of the fair market value in determining profit for the taxation year.

SECTION 4.—Subsection 1. The re-enactment of subsections 4 (2) and (3) of the Act and the repeal of subsection 4 (4) of the Act are consequential upon the re-enactment of section 3 of the Act and provide that,

- (a) operating and maintenance expenses related to social assets attributable to a specified uranium undertaking continue to be ineligible for deduction from an operator's profit; and
- (b) the current rates of depreciation continue to apply with respect to depreciable property attributable to the operation of specified uranium undertakings.

Subsection 2. The amendments to subsection 4 (5) of the Act are consequential upon the re-enactment of section 3 of the Act to up-date statutory references.

SECTION 5. The re-enactment of section 5 of the Act continues the current requirement to give notice of when a mine is in active operation, provides that the notice will be given to the Minister and clarifies when a mine will be considered to be in active operation.

SECTION 6. The amendment to subsection 6 (1) provides that the notice currently required to be given to the mine assessor prior to shipment of output from a mine will be given to the Minister instead of the mine assessor.

SECTION 7. The re-enactment of section 7 of the Act provides that the tax return currently required to be filed under subsection 7 (1) is to be delivered to the Minister, repeals the current provisions of subsection 7 (2) relating to demands for information from persons liable to pay tax and adopts by reference the provisions of the *Corporations Tax Act* relating to tax audits and requests for information for mining tax assessment purposes.

SECTION 8. The re-enactment of section 8 of the Act replaces the present tax assessment and refund provisions with assessment, refund and interest provisions that parallel the current provisions of the *Corporations Tax Act* to provide uniformity of administration with respect to taxes imposed in Ontario.

SECTION 9. The re-enactment of section 9 of the Act provides for the same time limits for issuing reassessments of tax as currently apply under the *Corporations Tax Act* and in addition, authorizes the Minister to reassess mining tax for prior years to disallow the deduction of pension plan contributions previously made by an operator if the operator subsequently withdraws the contributions from the pension plan.

SECTION 10. The re-enactment of section 10 of the Act adopts by reference the tax objection and appeal procedures of the *Corporations Tax Act* for the purpose of objecting to or appealing from mining tax assessments, to provide uniformity of tax objection and appeal procedures under Ontario taxing statutes.

SECTION 11. The re-enactment of section 11 of the Act maintains the requirement that every operator keep books of account of a sufficient nature to permit the determination of tax liability under the Act, and requires the operator to reimburse any expenses incurred by the Minister to examine the books of account when the operator has obtained the consent of the Minister to keep the books outside Ontario.

SECTION 12. The repeal of section 12 of the Act abolishes the office of mine assessor under the Act and is consequential upon the Treasurer's Budget proposal to reduce discretionary powers under the Act as well as the provisions of the Bill which transfer the authority to administer mining tax to the Minister of Revenue.

SECTION 13. The re-enactment of subsection 13 (1) maintains the authority to enter and inspect mines in connection with the administration of the Act.

SECTION 14. The re-enactment of section 15 of the Act removes a spent provision of the Act consequential upon the enactment of the *Assessment Amendment Act, 1973*, which abolished the imposition of property taxes on mining profits, and adds a new provision identical to section 97 of the *Corporations Tax Act* to permit the Minister at his or her discretion to accept a lesser amount in full satisfaction of taxes owing when special circumstances exist. The repeal of section 16 of the Act deletes a provision made redundant by section 8 of the *Ministry of Revenue Act* which authorizes remissions of tax by order of the Lieutenant Governor in Council on the recommendation of the Minister of Revenue, if the remission is in the public interest.

SECTION 15. The re-enactment of section 18 of the Act maintains the existing penalty for late payment of tax and parallels the provisions of the *Corporations Tax Act* with respect to other types of administrative penalties.

SECTIONS 16 and 17. The re-enactment of sections 19 and 20 of the Act parallel the provisions of the *Corporations Tax Act* with respect to the prosecution of offences under the Act.

SECTION 18. The re-enactment of section 21 of the Act adopts the legal remedies available to the Minister under the *Corporations Tax Act* to enforce payment and effect collection of unpaid taxes due under the Act, and provides for the expiry of unregistered liens under the current provisions of section 21 unless the lien is registered on title to the operator's property.

SECTION 19. The amendment to section 22 of the Act is consequential upon the enactment of the *Courts of Justice Act, 1984*.

SECTION 20. The repeal of sections 23 and 24 of the Act is consequential upon the proposed re-enactment of subsection 7 (1) and enactment of subsection 21 (1) of the Act by sections 7 and 18 of the Bill.

SECTION 21. The re-enactment of subsection 25 (1) to include a reference to subsection 11 (4) of the Act is consequential upon the proposed enactment of subsection 11 (4) by section 11 of the Bill.

SECTION 22. The re-enactment of section 26 is consequential upon the amendments to the Act proposed by the Bill.

SECTION 23. Transitional provisions are set out consequent upon the introduction of new administrative provisions relating to tax appeals, reassessments of tax and the abolition of the office of mine assessor.

Bill 189

1987

An Act to amend the Mining Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (a) of the *Mining Tax Act*, being chapter 269 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(a) “assessment” includes a reassessment.

(2) Section 1 of the said Act is amended by adding thereto the following clause:

(aa) “associated corporations” has the meaning given to that expression by section 256 of the *Income Tax Act* (Canada). R.S.C. 1952,
c. 148

(3) Clause 1 (b) of the said Act is repealed and the following substituted therefor:

(b) “Deputy Minister” means the Deputy Minister of Revenue.

(4) Clauses 1 (c) and (d) of the said Act are repealed and the following substituted therefor:

(c) “exploration and development expenditures” means any outlay or expense made or incurred that is,

- (i) for the purpose of determining the existence, location, extent or quality of a mineral substance in Ontario,
- (ii) for the purpose of bringing a mine in Ontario into production,
- (iii) for the purpose of developing a mine in Ontario after the mine comes into production, including sinking or constructing a mine shaft,

mine haulage way or similar underground work designed for continuing use, and any extension thereof, or

- (iv) any outlay or expense referred to in subclause (i), (ii) or (iii) made or incurred pursuant to an agreement whereby the outlay or expense represents consideration for the acquisition of,

- (A) interest in a mine or in a right to mine a property, or

- (B) shares of the capital stock of a corporation or any interest in or right to acquire such shares,

but, for greater certainty, shall not include,

- (v) any consideration given for any mine, right to mine a property or any share or interest therein or right thereto, except as provided by subclause (iv), or

- (vi) any outlay or expense described in subclause (iv) to the extent that the outlay or expense was, by virtue of that subclause, an exploration and development expenditure of another operator;

(ca) "fair market value" means the amount that could be expected to be realized on a sale in the open market by a willing seller to a willing buyer;

(cb) "hedging" means the fixing of a price for output of a mine before delivery by means of a forward sale or a futures contract on a recognized commodity exchange, or the purchase or sale forward of a foreign currency related directly to the proceeds of the output of a mine, but does not include speculative currency hedging except to the extent that the hedging transaction determines the final price and proceeds for the output;

(cc) "mine" means any opening in the ground, any working of the ground and any tailings source from or by which any mineral substance is taken, and comprises the mining claim, mining location and the whole parcel of land in which any such tailings source does or did exist or such workings are or have been carried on in Ontario;

(d) "mineral substance" means every type and kind of ore, rock, mineral and tailings, whether organic or inorganic, but does not include diatomaceous earth, limestone, marl, peat, clay, building stone, stone for ornamental or decorative purposes, non-auriferous sand or gravel, or natural gas or petroleum, or sodium chloride recovered by solution method;

(da) "mining assets" means the plant, equipment, machinery and buildings acquired for the purpose of the extraction of mineral substances from the ground and ancillary activities, but does not include processing assets or social assets.

(5) Clauses 1 (e) and (f) of the said Act are repealed and the following substituted therefor:

(e) "Minister" means the Minister of Revenue;

(f) "Ministry" means the Ministry of Revenue.

(6) Clause 1 (g) of the said Act is repealed.

(7) Clauses 1 (h), (i), (j), (k) and (l) of the said Act are repealed and the following substituted therefor:

(h) "operator" includes,

(i) a person who has the right to work a mine and win mineral substances therefrom, personally or through agents or servants or together with one or more other persons, and

(ii) a person who has the right to receive a share of the proceeds or the profits of a mine or who has an interest in a mine, whether as a member of a joint venture, as a member of a partnership, or as a beneficiary of a trust that has the right to work the mine and win mineral substances therefrom, but does not include any person whose only right or interest is the right to receive royalties;

(i) "output" means,

(i) the mineral substances raised, taken or obtained from any mine in Ontario, if those mineral substances are sold as such, or

- (ii) the product of a processing operation, where the mineral substances are raised, taken or gained from any mine in Ontario, if the processed product is sold;
- (j) "proceeds" means the total consideration that is received or is receivable from another person or persons, in any currency, whether in cash or non-cash form, from the output of the mine, including all by-products sold, or the amount determined in the prescribed manner, and all consideration received or receivable from hedging and future sales or forward sales of the output of the mine, converted at the date of receipt of the consideration to the equivalent in Canadian funds, if receivable in funds of another country;
- (k) "processing" means, with respect to mineral substances, any form of beneficiation, concentrating, smelting, refining, fabricating of metallic mineral substances, manufacturing of non-metallic mineral substances if the manufacturing is carried on in Canada, and any combination thereof;
- (ka) "processing assets" means processing plants, machinery, equipment and structures acquired for the purpose of processing mineral substances and ancillary activities, but does not include,
 - (i) the value of spare parts held in inventory for such assets,
 - (ii) stockpiles or inventories of processed mineral substances,
 - (iii) assets used for the transportation of processed mineral substances to market, or
 - (iv) mining assets or social assets;
- (l) "social asset" means a tangible asset owned by an operator that is incidental to mining and processing operations and that relates directly to the provision of housing, recreational or service facilities, if the asset,
 - (i) is necessary to attract or retain employees, and
 - (ii) is available for the use of all employees.

(8) Section 1 of the said Act is further amended by adding thereto the following clause:

(n) "Treasurer" means the Treasurer of Ontario.

(9) Section 1 of the said Act is further amended by adding thereto the following subsection:

(2) For the purposes of this Act, in the determination of whether two or more persons are not dealing at arm's length, section 251 of the *Income Tax Act* (Canada) applies with necessary modifications.

Non-arm's
length

R.S.C. 1952,
c. 148

2. Section 2 of the said Act is repealed and the following substituted therefor:

2.—(1) The taxes imposed by this Act shall be deemed to accrue proportionately as the days of each taxation year for which such taxes are imposed pass and the estimated amount of the taxes payable under this Act for a taxation year shall be paid to the Treasurer not later than two months after the end of the taxation year.

When taxes
accrue and
when payable

(2) Every operator of a mine shall pay the amount, if any, by which the tax that the operator estimates to be payable in the return required under section 7 exceeds the amount paid under subsection (1), at the time the operator delivers the return under section 7.

Payment of
balance

3.—(1) Subsections 3 (1) to (14) of the said Act are repealed and the following substituted therefor:

(1) Every operator is liable for and shall pay a tax equal to 20 per cent of the amount by which the operator's profit, as determined under subsection (5), for the taxation year from all mines in which the operator has an interest, exceeds the lesser of,

Mining tax

(a) the proportion of \$500,000 that the number of days in the taxation year is of 365; and

(b) the aggregate of amounts determined under subsection (3) in respect of each mine in which the operator has an interest.

(2) For the purposes of this section, where two or more associated corporations are operators of one or more mines, the aggregate of the amounts deducted under subsection (1) by such corporations shall not exceed \$500,000.

Associated
corporations

Part
interest

(3) The amount determined under this subsection in respect of an operator's interest in a mine is the product of the operator's interest in the mine multiplied by the lesser of,

- (a) \$500,000; and
- (b) if applicable, the amount determined under subsection (4) in respect of the mine.

Part year
production

(4) Where a mine is out of production in a taxation year for sixty or more consecutive days, the amount determined under this subsection for the purpose of clause (3) (b) is that proportion of \$500,000 that the number of days in the taxation year that the mine has been in production is of 365.

Profit

(5) An operator's profit for the taxation year from all mines in which the operator has an interest is the amount, if any, by which,

- (a) the operator's proceeds for the taxation year from the mines, other than amounts included in the computation of tax payable under this Act for a prior taxation year,

exceeds the aggregate of,

- (b) expenses incurred by the operator in the taxation year that are not otherwise deductible under this subsection, to the extent that the expenses are attributable to the production of output from the mines;
- (c) the operator's operating and maintenance expenses incurred in the taxation year with respect to social assets in Ontario, other than social assets referred to in subsection 4 (2), after deducting therefrom all rents, fees, grants and other payments received by the operator during the taxation year in connection therewith;
- (d) administrative and overhead expenses incurred by the operator in the taxation year, to the extent they are reasonably attributable to the production or sale of output of the mines;
- (e) expenses incurred by the operator in the taxation year in respect of scientific research conducted in Canada or in respect of product use development research conducted in Canada, to the extent the research is related to output of the mines;

- (f) donations made by the operator in the taxation year for charitable, educational or benevolent purposes that are reasonably related to mining operations in Ontario;
- (g) an amount not in excess of the maximum amount deductible by the operator for the taxation year as determined under subsection (7) in respect of exploration and development expenditures;
- (h) an amount not in excess of the operator's allowance for depreciation for the taxation year calculated in accordance with subsection (6);
- (i) expenses and outlays incurred by the operator in the taxation year for the transportation of output from the mine to the point of delivery of the output to its purchaser;
- (j) such reserves and deductions as are prescribed; and
- (k) the operator's prescribed processing allowance for the taxation year.

(6) The operator's allowance for depreciation for a taxation year in respect of depreciable property is,

Calculation
of
allowance for
depreciation

- (a) an amount in respect of processing assets and assets for transporting processed mineral substances to market from the point at which processing is completed, not in excess of the lesser of,
 - (i) 15 per cent of the capital cost of the assets, computed as of the end of the taxation year, and
 - (ii) the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction calculated under this clause for the taxation year);
- (b) an amount in respect of mining assets, other than mining assets for which an allowance for depreciation is calculated under clause (c), not in excess of the lesser of,
 - (i) the aggregate of 30 per cent of the capital cost, computed as of the end of the taxation year, of mining assets acquired after the 9th day of April, 1974, which have not been used

previously in mining operations and 15 per cent of the capital cost, computed as of the end of the taxation year, of any other mining assets, and

- (ii) the undepreciated capital cost of the mining assets as of the end of the taxation year (before making any deduction calculated under this clause for the taxation year); and
- (c) where a mine is a new mine or a major expansion of an existing mine designated by the Minister for the purpose of this clause, an amount at the option of the operator, instead of the amount calculated under clause (b), in respect of mining assets acquired after the 7th day of March, 1978, and before completion of the project from a person dealing at arm's length for use in the new mine or the major expansion, not exceeding the lesser of,
 - (i) the operator's profit for the taxation year from the new mine or the major expansion calculated in the prescribed manner, and
 - (ii) the undepreciated capital cost of the mining assets as of the end of the taxation year (before making any deduction calculated under this clause for the taxation year).

Exploration
and
development
expenditures

(7) For the purposes of clause (5) (g), the maximum amount deductible by an operator for a taxation year in respect of exploration and development expenditures is the aggregate of,

- (a) exploration and development expenditures incurred in Ontario by the operator to the extent that such expenditures qualified as exploration and development expenditures under this Act at the time they were incurred; and
- (b) exploration and development expenditures incurred by another person to the extent that,
 - (i) such expenditures qualified as exploration and development expenditures under this Act at the time they were incurred by the other person, and
 - (ii) such expenditures qualify to be renounced and have been renounced by the other person

in favour of the operator under subdivision e of Division B of Part I of the *Income Tax Act* (Canada) and have not been deducted by the other person under this Act or in the calculation of taxable income of the other person under Part I of the *Income Tax Act* (Canada),

R.S.C. 1952,
c. 148

less the aggregate of,

(c) all amounts deducted under this Act by the operator in any previous taxation year in respect of exploration and development expenditures;

(d) all amounts allowed as eligible exploration expenses under the *Ontario Mineral Exploration Program Act*;

R.S.O. 1980,
c. 346

(e) the amount of any assistance or benefit from a government, municipality or other public authority in respect thereto, including any grant, subsidy, forgivable loan, investment allowance or other form of assistance or benefit received or receivable by the operator, other than a grant or tax credit under the *Ontario Mineral Exploration Program Act*; and

(f) all exploration and development expenditures that qualify to be renounced and have been renounced by the operator in favour of another person under subdivision e of Division B of Part I of the *Income Tax Act* (Canada).

(8) For the purposes of this section, where an operator has deducted an amount under subsection 127 (5) of the *Income Tax Act* (Canada) in respect of depreciable property or has received or is entitled to receive assistance from a government, municipality or other public authority in respect of, or for the acquisition of, depreciable property, whether as a grant, subsidy, forgivable loan or any other form of assistance, the capital cost of the property shall be deemed to be the amount by which the aggregate of,

Reduction of
capital cost

(a) the capital cost thereof to the operator determined without reference to this subsection; and

(b) the part, if any, of the assistance that has been repaid by the operator before the disposition thereof by the operator,

exceeds the aggregate of,

R.S.C. 1952,
c. 148

- (c) all amounts deducted under subsection 127 (5) of the *Income Tax Act* (Canada); and
- (d) the amount of assistance the operator has received or is entitled to receive in respect of that property before the disposition thereof by the operator.

Non-al-
lowable
deductions

(9) No allowance or deduction shall be claimed or made under this section in respect of,

- (a) an outlay, loss or replacement of capital, a payment on account of capital or an amount in respect of depreciation, amortization, obsolescence or depletion, unless expressly permitted by this Act;
- (b) interest or dividends paid;
- (c) royalties for the right to extract mineral substances, or use real property in connection with the extraction of mineral substances, paid to any person other than Her Majesty in Right of Canada or Ontario; and
- (d) any income or profits tax and any tax on capital paid to any jurisdiction.

Undepre-
ciated
capital cost

(10) The undepreciated capital cost of any depreciable property at any time means the amount by which the aggregate of,

- (a) the capital cost of the property acquired before that time; and
- (b) all amounts included in profit by virtue of subsection (11) for a taxation year ending prior to that time,

exceeds the aggregate of,

- (c) the total of the amounts deducted under this Act before that time as an allowance for depreciation with respect to the property; and
- (d) for each disposition of the property or part thereof, the lesser of,
 - (i) the proceeds of disposition of the property or part, and
 - (ii) the capital cost of the property or part.

(11) Where, at the end of a taxation year, the aggregate of all amounts determined under clauses (10) (c) and (d) exceeds the aggregate of all amounts determined under clauses (10) (a) and (b), the excess shall be deemed to be proceeds for the purposes of clause (5) (a). Recapture

(12) Where any property is acquired from or transferred to a person not dealing at arm's length with the operator, the capital cost of the property to the purchaser for the purposes of this Act and the proceeds of disposition of the property for the purposes of this Act shall be deemed to be, Where not dealing at arm's length

(a) the amount or amounts determined in the prescribed manner where the property is depreciable property referred to in subsection (6); and

(b) fair market value where the property is not depreciable property referred to in subsection (6).

(13) Where output from a mine is sold to a purchaser who does not deal at arm's length with the operator, the amount of the proceeds for the purposes of clause (5) (a) shall be deemed to be the fair market value of the output. Idem

(14) Where any goods or services are obtained or acquired from a supplier who does not deal at arm's length with the operator for an amount that exceeds the fair market value of the goods or services, no amount in excess of the fair market value of the goods or services shall be deductible under subsection (5). Idem

(2) Subsections 3 (15) and (16) of the said Act are repealed.

4.—(1) Subsections 4 (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

(2) No deduction shall be made under clause 3 (5) (c) for operating and maintenance expenses related to social assets in Ontario that are attributable to a specified uranium undertaking. No deduction for certain operating and maintenance expenses

(3) Notwithstanding subsection 3 (6), Allowance for depreciation

(a) no deduction shall be made under clause 3 (5) (h) in respect of processing assets not situate in Canada and assets for transporting processed mineral substances to market from the point at which the processing outside Canada is completed that are attributable to the operation of a specified uranium undertaking;

- (b) the deduction allowed under clause 3 (5) (h) in respect of processing assets situate in Canada, assets for transporting processed mineral substances to market from the point at which processing in Canada is completed and mining assets, attributable to the operation of a specified uranium undertaking, shall not be,
 - (i) greater than 15 per cent of the capital cost of the assets as of the end of the taxation year, and
 - (ii) less than the lesser of 5 per cent of the capital cost of the assets as of the end of the taxation year and the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction under clause 3 (5) (h) in respect of the assets for the taxation year); and
- (c) clause 3 (6) (c) does not apply for the purposes of determining an allowance for depreciation with respect to mining assets used in the operation of a specified uranium undertaking.

(2) Subsection 4 (5) of the said Act is amended by striking out “clause 3 (7) (n)” in the first line and inserting in lieu thereof “clause 3 (5) (g)” and by striking out “subclauses (i) and (ii) of” in the third line.

5. Section 5 of the said Act is repealed and the following substituted therefor:

Duty to give
notice of
active
operation

5.—(1) The operators of a mine from which any mineral substance is raised, taken or gained shall, within ten days after the commencement of active operation of the mine, give written notice to the Minister that the mine is in active operation, and such notice shall state the name and address of every operator of the mine.

Notice of
change

(2) Every operator of a mine that is in active operation shall forthwith give written notice to the Minister of every change in the operator's name or address and such notice shall contain an address for service of the operator where notices or demands under this Act may be given or served.

Service
of notice

(3) Any notice or demand required or provided for by this Act shall be deemed to have been properly and sufficiently given or served on the operator if mailed by registered mail to the address for service given by the operator, and in case no

address for service is given as herein required, the notice or demand shall be sufficiently given or served if mailed by registered mail to any address that the Minister considers most likely to bring the notice or demand to the attention of the operator.

(4) The operators of a mine shall forthwith give written notice to the Minister of every discontinuance of active operation of the mine and of every recommencement thereof after discontinuance.

Notice of
discon-
tinuance

(5) For the purposes of this section and section 6, a mine is in active operation when any operator thereof is regularly entitled to receive proceeds from the output of the mine.

Meaning of
"active
operation"

6. Subsection 6 (1) of the said Act is amended by striking out "mine assessor" in the fifth line and inserting in lieu thereof "Minister".

7.—(1) Subsection 7 (1) of the said Act is repealed and the following substituted therefor:

(1) On or before the last day of the month that ends six months following the close of the taxation year, every operator of a mine in Ontario shall, without notice or demand, deliver to the Minister a return containing an estimate of the tax for which the operator is liable and the return shall be verified by a certificate stating that the information included in the return is in agreement with the books required to be kept under this Act, and such certificate shall be signed by a person who has personal knowledge of the affairs of the operator and the mine, but the Minister may require the person who certified the return to verify under oath the return or any part thereof, and any person so required shall forthwith make and file with the Minister an affidavit verifying the truth of the matters and facts contained in the return.

Returns

(2) Subsection 7 (2) of the said Act is repealed and the following substituted therefor:

(2) Section 86 of the *Corporations Tax Act*, other than clause (1) (d) and subsection (4) thereof, applies for the purposes of this Act and in the application thereof,

Investigations
R.S.O. 1980,
c. 97

- (a) references to the corporation liable to pay tax under that Act shall be read as references to the operator under this Act; and

- (b) the reference in clause 86 (2) (a) to “a return as required by section 67” shall be read as “a return as required under this Act”.

8. Section 8 of the said Act is repealed and the following substituted therefor:

Notice of
assessment

8.—(1) The Minister shall with all due dispatch examine each return delivered under section 7 together with any other information furnished under this Act and shall assess the tax for the taxation year and the interest and penalties, if any, payable.

Interest on
unpaid tax

(2) Where the amount paid on account of the tax payable by the operator for a taxation year is less than the amount of tax payable for the taxation year, the operator liable to pay the tax shall pay interest on the difference between,

(a) the amount of tax payable for the taxation year; and

(b) the amount paid on account of the tax payable for the taxation year,

from the day on which the estimated amount of the tax payable for the taxation year is required to be paid under subsection 2 (1) to the day of payment of the tax, at the prescribed rate.

Interpretation

(3) For the purposes of subsections (2) and (9), the “amount paid on account of the tax payable” is the amount paid by the operator on account of the tax payable for the taxation year minus any amounts refunded to the operator or any amounts applied to other liability of the operator.

Idem

(4) For the purposes of subsections (2), (3) and (9), the “amount of tax payable” for a taxation year includes any penalty payable by the operator for the taxation year.

Assessments
and refunds
R.S.O. 1980,
c. 97

(5) Subsections 73 (5), (6), (9) and (10), section 74 and subsections 75 (1) and (2) of the *Corporations Tax Act* apply for the purposes of this Act and in the application thereof,

(a) references to the “corporation” shall be read as references to the “operator”;

(b) the reference to subsections 73 (5) and (9) of that Act in subsection 74 (2) shall be deemed to be a reference to those subsections as made applicable for the purposes of this Act;

- (c) the reference to “section 67” of that Act in subsection 75 (1) shall be read as “section 7” of this Act; and
- (d) the reference in subsection 75 (1) to special small corporations and to the payment of the balance of tax as required under sub-subclause 70 (2) (b) (i) (B) of that Act shall not be applicable.

(6) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at the prescribed rate shall be paid or applied thereon for the period commencing with the later of,

Interest on
overpayments

- (a) the day on which the overpayment arose; and
- (b) the day on or before which the balance of the tax payable for the taxation year is required to be paid under this Act,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection.

(7) Where by a decision of the Minister after the filing of an objection under section 10 or of a court it is finally determined that the tax payable under this Act by an operator for a taxation year is less than the amount assessed to which objection was made or from which the appeal was taken and the effect of the decision is that an overpayment has been made for the taxation year, the interest payable under subsection (6) on that overpayment shall be computed at the prescribed rate.

Idem

(8) Where an amount has been paid with respect to the provisions of section 92 of the *Corporations Tax Act*, as made applicable for the purposes of this Act, and the tax payable under this Act for the taxation year as finally determined is less than the payment, the interest payable on that overpayment shall be computed at such rate as is prescribed for the purposes of subsection (7) as though the day on which the overpayment arose is the day upon which the payment was made.

Idem
R.S.O. 1980,
c. 97

(9) Except as provided in subsection (8), “overpayment” means the aggregate of all amounts paid on account of tax payable for a taxation year less all amounts payable under this Act, or an amount so paid where no amount is payable under this Act.

Interpretation

Application
of payments
received
R.S.O. 1980,
c. 97

(10) Subsection 70 (6) of the *Corporations Tax Act* is applicable for the purposes of this Act and, in the application thereof, the references to "a corporation" and "the corporation" shall be read as "an operator" and "the operator", respectively.

9. Section 9 of the said Act is repealed and the following substituted therefor:

Reassessment

9.—(1) The Minister may,

(a) at any time, if the operator filing a return,

- (i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or
- (ii) has failed to file the financial information with the return required to be filed under section 7, or
- (iii) has been negligent in supplying any information under this Act, or
- (iv) has filed with the Minister a waiver in the prescribed form within six years from the day of mailing of the notice of an original assessment; and

(b) within six years of the day of mailing of the original notice of assessment in any other case,

reassess or make additional assessments, or assess a tax, interest or penalties, as the circumstances require.

Revocation
of waiver

(2) Where the Minister is authorized to issue an assessment under subsection (1) by reason only that the operator has filed a waiver under subclause (1) (a) (iv), the Minister may not issue an assessment later than one year after the date on which the operator has filed a notice of revocation of the waiver in the prescribed form.

Pension plan
withdrawals

(3) Notwithstanding subsection (1), where any amount is withdrawn by an operator from an employees' superannuation or pension fund or plan, the Minister may reassess the amount of tax payable by the operator under this Act for a maximum of ten taxation years immediately preceding the taxation year in which the withdrawal is made, and may disallow the deduction of all or any part of the amounts previously deducted by the operator in the calculation of the profit of the mine for

such taxation years with respect to contributions made by the operator and any predecessor thereof to such fund or plan, but in no case shall the total of the amounts disallowed for such taxation years exceed the lesser of the amount withdrawn from the fund or plan and the amount of such contributions to the fund or plan as determined in the prescribed manner.

10. Section 10 of the said Act is repealed and the following substituted therefor:

10. Sections 77, 78, 79, 80, 81, 82, 83 and 84 of the *Corporations Tax Act* apply for the purposes of this Act, and in the application thereof the following rules apply:

Objections
and appeals
R.S.O. 1980,
c. 97

1. References therein to “a corporation” and “the corporation” shall be read as “an operator” and “the operator”, respectively.
2. The reference to section 73 of that Act in subsection 77 (1) and clause 77 (6) (a) shall be read as a reference to sections 8 and 9 of this Act.
3. The reference in subsection 77 (5) to “clause 73 (7) (b) or (c)” shall be deemed to be a reference to clause 9 (1) (b) of this Act.
4. Clause 77 (6) (b) is not applicable for the purposes of this Act.
5. Clause 77 (6) (d) shall be read without reference to the words “if section 85 does not apply”.
6. All references therein to sections 77, 78 and 80 of that Act, and subsections thereof as applicable, shall be deemed to be references to those sections and subsections as made applicable by this section.
7. The reference to subsection 73 (10) in section 79 shall be deemed to be a reference to that subsection as made applicable by section 8 of this Act.

11. Section 11 of the said Act is repealed and the following substituted therefor:

11.—(1) Every operator shall keep at or near the mine, or at such place determined under subsection (3), proper books of account showing,

Books of
account

- (a) the quantity, weight, value, composition and other particulars of the mineral substances raised, taken or gained from the mine;
- (b) the returns from the processing plant;
- (c) the proceeds from the output of the mine;
- (d) each of the several expenses, payments and allowances deducted pursuant to section 3; and
- (e) any other facts and circumstances necessary or proper for ascertaining the amount of tax imposed by this Act.

Removal of
mineral
substances
from mining
premises

(2) No mineral substance raised, taken or gained from any mine shall be removed from the mining premises or processed at any processing plant until the weight of the mineral substance has been ascertained and entered in the books of account required to be kept under subsection (1).

Idem

(3) The Minister may determine the number and character of books required to be kept under subsection (1) and may require that the books of account mentioned in subsection (1) be kept at such place in Ontario as the Minister determines.

Costs

(4) Where the Minister permits books of account to be kept outside of Ontario, all costs incurred by the Minister to examine such books at the place where they are kept shall be reimbursed by the operator and the Minister may forthwith take all remedies available under this Act or at law to recover such costs.

Retention
of books
of account
R.S.O. 1980,
c. 97

(5) Subsection 87 (3) of the *Corporations Tax Act* is applicable for the purposes of this Act and, in the application thereof, the reference to "every corporation" shall be read as "every operator".

12. Section 12 of the said Act is repealed.

13. Subsection 13 (1) of the said Act is repealed and the following substituted therefor:

Entry to
mine

(1) Any person authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter upon any mine in Ontario and the operator of the mine shall,

- (a) permit such person to descend all pits and shafts and use all tackle, machinery, appliances and things

belonging to or under the control of the operator that the person considers necessary or expedient for the purposes of carrying out his or her duties under this subsection;

- (b) give to such person free ingress and egress to, from and over all buildings, erections, structures and vessels used in connection with the mine and any processing plant at which mineral substance taken from the mine is processed or in any way modified; and
- (c) permit the person to take such samples or specimens of mineral substance as the person considers necessary for the purpose of determining their value by assay or otherwise.

14. Sections 15 and 16 of the said Act are repealed and the following substituted therefor:

15. If any doubt or dispute arises as to the liability of an operator to pay the tax or any portion of the tax demanded under this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as the Minister considers proper.

Compromising disputes as to liability for tax

15. Section 18 of the said Act is repealed and the following substituted therefor:

18.—(1) Every operator who fails to pay any tax imposed under this Act or any estimate of tax required to be paid under this Act at the time provided is liable to a penalty of 10 per cent of the amount unpaid plus an additional penalty of 10 per cent of the amount unpaid for each twelve month period that the tax or estimate of tax remains unpaid.

Penalty for failure to pay tax

(2) Every operator who fails to deliver a return as and when required by section 7 shall pay a penalty of,

Penalty

- (a) an amount equal to 10 per cent of the tax that was unpaid when the return was required to be delivered, if the tax payable by the operator for the taxation year that was unpaid at that time was less than \$10,000; and
- (b) \$1,000, if at the time the return was required to be delivered tax payable by the operator equal to \$10,000 or more was unpaid.

Failure to
complete
return

(3) Every operator who fails to complete the information required on the return to be delivered under section 7 is liable to a penalty of 1 per cent of the tax payable by the operator under this Act, but such penalty shall not in any case be less than \$20 or more than \$100.

Statements
or omissions
in return

(4) Where a person, acting or purporting to act on behalf of an operator, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made, or has participated in, assented to or acquiesced in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") filed or made in respect of a taxation year as required by or under this Act or the regulations, the operator is liable to a penalty of 25 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable by the operator under this Act if the operator's profit for the taxation year was computed by adding to the operator's profit for the taxation year as reported by the operator in the return for the year that portion of the understatement of profit for the taxation year that is reasonably attributable to the false statement,

exceeds,

- (b) the tax for the year that would have been payable by the operator under this Act had the tax payable for the taxation year been assessed on the basis of the information provided in the operator's return for the taxation year.

16. Section 19 of the said Act is repealed and the following substituted therefor:

Offences

19.—(1) Every operator that fails to deliver a return as and when required by this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of not less than \$50 for each day of default.

Idem
R.S.O. 1980,
c. 97

(2) Every person who fails to comply with or contravenes subsection 86 (8) of the *Corporations Tax Act*, as made applicable by subsection 7 (2) of this Act, section 11 or subsection 13 (1), is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of \$25 for each day during which the default or contravention continues.

(3) Sections 89 and 90 of the *Corporations Tax Act* apply for the purposes of this Act. Officers of corporations

17. Section 20 of the said Act is repealed and the following substituted therefor:

20. Every person who has,

False statements

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of an operator;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of an operator;
- (d) wilfully in any manner evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by clauses (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years or to both fine and imprisonment.

18. Section 21 of the said Act is repealed and the following substituted therefor:

21.—(1) Subsections 92 (1), (2), (4) and (5) and sections 93, 94, 94a, 94b, 94c and 95 of the *Corporations Tax Act* apply with necessary modifications for the purposes of this Act and, without limiting the generality of the foregoing, references therein to “a corporation” and “the corporation” with respect to a person liable to pay an amount under that Act

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R.S.O. 1980,
c. 97

shall be read as “an operator” and “the operator” for the purposes of this Act.

Unregistered
liens
discharged

(2) Any property of any kind that is, by virtue of any predecessor of this section, subject to a first lien and charge that is not registered in the proper land registry office, is absolutely discharged from such unregistered first lien and charge unless, in the case of real property, in any proceeding a claim has been made or other steps taken by the Minister with respect to such unregistered first lien and charge or, prior to the 1st day of January, 1988, a notice of such first lien and charge has been registered by the Minister in the proper land registry office.

19. Section 22 of the said Act is amended by striking out “county or district court” in the ninth line and inserting in lieu thereof “District Court”.

20. Sections 23 and 24 of the said Act are repealed.

21. Subsection 25 (1) of the said Act is repealed and the following substituted therefor:

Action to
recover
tax, etc.

(1) If any tax, interest or penalty imposed by this Act or the reimbursement required under subsection 11 (4) is not paid when due, the same may be recovered with costs from the operator by an action to be tried without a jury at the suit of the Minister in any court of competent jurisdiction.

22. Section 26 of the said Act is repealed and the following substituted therefor:

Regulations

26.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing rates of interest for the purposes of this Act or a formula for computing those rates and the method of calculating that interest;
- (b) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (c) prescribing anything that by this Act is to be prescribed or is to be determined by the regulations;
- (d) defining any word or expression used in this Act or the regulations made under this Act that has not already been expressly defined in this Act;

- (e) prescribing forms and providing for their use;
- (f) prescribing the manner of determining the profit for the taxation year of an operator who is a member of a partnership or a beneficiary of a trust where the partnership or trust is operating a mine; and
- (g) prescribing the manner of determining and the matters to be taken into account in determining whether there is a mine project that is a new mine or a major expansion of an existing mine for the purposes of clause 3 (6) (c) and the time at which a mine project is completed.

(2) A regulation made under subsection (1) may be made effective retroactively to a date not earlier than the 1st day of January, 1974.

Regulation
may be
retroactive

23.—(1) Where,

Transitional

- (a) a person has delivered to the Minister, before the 15th day of May, 1986, a written notice of appeal within the time required under subsection 10 (1) of the *Mining Tax Act* as that subsection read immediately before the 15th day of May, 1986; and
- (b) the appeal referred to in clause (a) has not been, before the 15th day of May, 1986,
 - (i) referred to the Mining and Lands Commissioner or the Ontario Municipal Board under subsection 10 (2) of the *Mining Tax Act* as that subsection read immediately before the 15th day of May, 1986, or
 - (ii) set down for hearing and determination by the Divisional Court under subsection 10 (4) of the *Mining Tax Act* as that subsection read immediately before the 15th day of May, 1986,

the written notice of appeal shall be deemed to be a notice of objection served on the Minister for the purposes of the application of sections 8 and 10 of the *Mining Tax Act*, as re-enacted by sections 8 and 10 respectively of this Act.

(2) All references in the provisions of the *Mining Tax Act* as they read immediately before the day this Act receives Royal Assent and which remain applicable in respect of taxation years ending on or before the 31st day of March, 1986, and in

Idem

the regulations made under the said Act, to the "mine assessor" shall be deemed to be references to the "Minister".

Idem

(3) In the application of section 9 of the *Mining Tax Act*, as re-enacted by section 9 of this Act,

- (a) where an assessment, reassessment or additional assessment is made on or before the day this Act receives Royal Assent, references in section 9, as re-enacted, to the "Minister" shall be deemed to be references to the "mine assessor";
- (b) where an assessment, reassessment or additional assessment is made in respect of a taxation year ending before the 1st day of April, 1986, references in subclause 9 (1) (a) (iv) and clause 9 (1) (b) to "six years" shall be read as references to "four years"; and
- (c) subsection 9 (3) applies only in respect of amounts withdrawn from an employees' superannuation or pension fund or plan after the 31st day of March, 1986.

Commencement
and
application

24.—(1) This Act, except as provided in subsections (2) to (7), comes into force on the day it receives Royal Assent.

Idem

(2) Section 19 shall be deemed to have come into force on the 1st day of January, 1985.

Idem

(3) Subsections 1 (2), (4), (7) to (9) and section 2 of this Act, subsections 3 (1) to (11) of the said Act, as re-enacted by subsection 3 (1) of this Act, subsection 3 (2), section 4 and subsection 7 (1) of this Act shall be deemed to have come into force on the 1st day of April, 1986, and apply in respect of taxation years ending after the 31st day of March, 1986.

Idem

(4) Subsection 3 (12) to (14) of the said Act, as re-enacted by subsection 3 (1) of this Act, shall be deemed to have come into force on the 1st day of April, 1986, and apply in respect of acquisitions, transfers, dispositions and sales made after the 31st day of March, 1986.

Idem

(5) Section 9 shall be deemed to have come into force on the 1st day of April, 1986, and applies in respect of assessments, reassessments and additional assessments made after the 31st day of March in respect of any taxation year.

Idem

(6) Subsections 1 (3) and (5) shall be deemed to have come into force on the 15th day of May, 1986.

(7) Section 10 shall be deemed to have come into force on ^{Idem} the 15th day of May, 1986, and applies in respect of assessments issued after the 14th day of April, 1986.

25. The short title of this Act is the *Mining Tax Amendment* ^{Short title} *Act, 1987*.

Bill 189

*(Chapter 11
Statutes of Ontario, 1987)*

An Act to amend the Mining Tax Act

The Hon. R. Nixon
Minister of Revenue

<i>1st Reading</i>	January 28th, 1987
<i>2nd Reading</i>	February 9th, 1987
<i>3rd Reading</i>	February 11th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 189

1987

An Act to amend the Mining Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (a) of the *Mining Tax Act*, being chapter 269 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(a) “assessment” includes a reassessment.

(2) Section 1 of the said Act is amended by adding thereto the following clause:

(aa) “associated corporations” has the meaning given to that expression by section 256 of the *Income Tax Act* (Canada). R.S.C. 1952,
c. 148

(3) Clause 1 (b) of the said Act is repealed and the following substituted therefor:

(b) “Deputy Minister” means the Deputy Minister of Revenue.

(4) Clauses 1 (c) and (d) of the said Act are repealed and the following substituted therefor:

(c) “exploration and development expenditures” means any outlay or expense made or incurred that is,

(i) for the purpose of determining the existence, location, extent or quality of a mineral substance in Ontario,

(ii) for the purpose of bringing a mine in Ontario into production,

(iii) for the purpose of developing a mine in Ontario after the mine comes into production, including sinking or constructing a mine shaft,

mine haulage way or similar underground work designed for continuing use, and any extension thereof, or

- (iv) any outlay or expense referred to in subclause (i), (ii) or (iii) made or incurred pursuant to an agreement whereby the outlay or expense represents consideration for the acquisition of,

- (A) interest in a mine or in a right to mine a property, or

- (B) shares of the capital stock of a corporation or any interest in or right to acquire such shares,

but, for greater certainty, shall not include,

- (v) any consideration given for any mine, right to mine a property or any share or interest therein or right thereto, except as provided by subclause (iv), or

- (vi) any outlay or expense described in subclause (iv) to the extent that the outlay or expense was, by virtue of that subclause, an exploration and development expenditure of another operator;

(ca) "fair market value" means the amount that could be expected to be realized on a sale in the open market by a willing seller to a willing buyer;

(cb) "hedging" means the fixing of a price for output of a mine before delivery by means of a forward sale or a futures contract on a recognized commodity exchange, or the purchase or sale forward of a foreign currency related directly to the proceeds of the output of a mine, but does not include speculative currency hedging except to the extent that the hedging transaction determines the final price and proceeds for the output;

(cc) "mine" means any opening in the ground, any working of the ground and any tailings source from or by which any mineral substance is taken, and comprises the mining claim, mining location and the whole parcel of land in which any such tailings source does or did exist or such workings are or have been carried on in Ontario;

(d) "mineral substance" means every type and kind of ore, rock, mineral and tailings, whether organic or inorganic, but does not include diatomaceous earth, limestone, marl, peat, clay, building stone, stone for ornamental or decorative purposes, non-auriferous sand or gravel, or natural gas or petroleum, or sodium chloride recovered by solution method;

(da) "mining assets" means the plant, equipment, machinery and buildings acquired for the purpose of the extraction of mineral substances from the ground and ancillary activities, but does not include processing assets or social assets.

(5) Clauses 1 (e) and (f) of the said Act are repealed and the following substituted therefor:

(e) "Minister" means the Minister of Revenue;

(f) "Ministry" means the Ministry of Revenue.

(6) Clause 1 (g) of the said Act is repealed.

(7) Clauses 1 (h), (i), (j), (k) and (l) of the said Act are repealed and the following substituted therefor:

(h) "operator" includes,

(i) a person who has the right to work a mine and win mineral substances therefrom, personally or through agents or servants or together with one or more other persons, and

(ii) a person who has the right to receive a share of the proceeds or the profits of a mine or who has an interest in a mine, whether as a member of a joint venture, as a member of a partnership, or as a beneficiary of a trust that has the right to work the mine and win mineral substances therefrom, but does not include any person whose only right or interest is the right to receive royalties;

(i) "output" means,

(i) the mineral substances raised, taken or obtained from any mine in Ontario, if those mineral substances are sold as such, or

- (ii) the product of a processing operation, where the mineral substances are raised, taken or gained from any mine in Ontario, if the processed product is sold;
- (j) "proceeds" means the total consideration that is received or is receivable from another person or persons, in any currency, whether in cash or non-cash form, from the output of the mine, including all by-products sold, or the amount determined in the prescribed manner, and all consideration received or receivable from hedging and future sales or forward sales of the output of the mine, converted at the date of receipt of the consideration to the equivalent in Canadian funds, if receivable in funds of another country;
- (k) "processing" means, with respect to mineral substances, any form of beneficiation, concentrating, smelting, refining, fabricating of metallic mineral substances, manufacturing of non-metallic mineral substances if the manufacturing is carried on in Canada, and any combination thereof;
- (ka) "processing assets" means processing plants, machinery, equipment and structures acquired for the purpose of processing mineral substances and ancillary activities, but does not include,
 - (i) the value of spare parts held in inventory for such assets,
 - (ii) stockpiles or inventories of processed mineral substances,
 - (iii) assets used for the transportation of processed mineral substances to market, or
 - (iv) mining assets or social assets;
- (l) "social asset" means a tangible asset owned by an operator that is incidental to mining and processing operations and that relates directly to the provision of housing, recreational or service facilities, if the asset,
 - (i) is necessary to attract or retain employees, and
 - (ii) is available for the use of all employees.

(8) Section 1 of the said Act is further amended by adding thereto the following clause:

(n) "Treasurer" means the Treasurer of Ontario.

(9) Section 1 of the said Act is further amended by adding thereto the following subsection:

(2) For the purposes of this Act, in the determination of whether two or more persons are not dealing at arm's length, section 251 of the *Income Tax Act* (Canada) applies with necessary modifications.

Non-arm's
length

R.S.C. 1952,
c. 148

2. Section 2 of the said Act is repealed and the following substituted therefor:

2.—(1) The taxes imposed by this Act shall be deemed to accrue proportionately as the days of each taxation year for which such taxes are imposed pass and the estimated amount of the taxes payable under this Act for a taxation year shall be paid to the Treasurer not later than two months after the end of the taxation year.

When taxes
accrue and
when payable

(2) Every operator of a mine shall pay the amount, if any, by which the tax that the operator estimates to be payable in the return required under section 7 exceeds the amount paid under subsection (1), at the time the operator delivers the return under section 7.

Payment of
balance

3.—(1) Subsections 3 (1) to (14) of the said Act are repealed and the following substituted therefor:

(1) Every operator is liable for and shall pay a tax equal to 20 per cent of the amount by which the operator's profit, as determined under subsection (5), for the taxation year from all mines in which the operator has an interest, exceeds the lesser of,

Mining tax

- (a) the proportion of \$500,000 that the number of days in the taxation year is of 365; and
- (b) the aggregate of amounts determined under subsection (3) in respect of each mine in which the operator has an interest.

(2) For the purposes of this section, where two or more associated corporations are operators of one or more mines, the aggregate of the amounts deducted under subsection (1) by such corporations shall not exceed \$500,000.

Associated
corporations

Part
interest

(3) The amount determined under this subsection in respect of an operator's interest in a mine is the product of the operator's interest in the mine multiplied by the lesser of,

- (a) \$500,000; and
- (b) if applicable, the amount determined under subsection (4) in respect of the mine.

Part year
production

(4) Where a mine is out of production in a taxation year for sixty or more consecutive days, the amount determined under this subsection for the purpose of clause (3) (b) is that proportion of \$500,000 that the number of days in the taxation year that the mine has been in production is of 365.

Profit

(5) An operator's profit for the taxation year from all mines in which the operator has an interest is the amount, if any, by which,

- (a) the operator's proceeds for the taxation year from the mines, other than amounts included in the computation of tax payable under this Act for a prior taxation year,

exceeds the aggregate of,

- (b) expenses incurred by the operator in the taxation year that are not otherwise deductible under this subsection, to the extent that the expenses are attributable to the production of output from the mines;
- (c) the operator's operating and maintenance expenses incurred in the taxation year with respect to social assets in Ontario, other than social assets referred to in subsection 4 (2), after deducting therefrom all rents, fees, grants and other payments received by the operator during the taxation year in connection therewith;
- (d) administrative and overhead expenses incurred by the operator in the taxation year, to the extent they are reasonably attributable to the production or sale of output of the mines;
- (e) expenses incurred by the operator in the taxation year in respect of scientific research conducted in Canada or in respect of product use development research conducted in Canada, to the extent the research is related to output of the mines;

- (f) donations made by the operator in the taxation year for charitable, educational or benevolent purposes that are reasonably related to mining operations in Ontario;
- (g) an amount not in excess of the maximum amount deductible by the operator for the taxation year as determined under subsection (7) in respect of exploration and development expenditures;
- (h) an amount not in excess of the operator's allowance for depreciation for the taxation year calculated in accordance with subsection (6);
- (i) expenses and outlays incurred by the operator in the taxation year for the transportation of output from the mine to the point of delivery of the output to its purchaser;
- (j) such reserves and deductions as are prescribed; and
- (k) the operator's prescribed processing allowance for the taxation year.

(6) The operator's allowance for depreciation for a taxation year in respect of depreciable property is,

Calculation
of
allowance for
depreciation

- (a) an amount in respect of processing assets and assets for transporting processed mineral substances to market from the point at which processing is completed, not in excess of the lesser of,
 - (i) 15 per cent of the capital cost of the assets, computed as of the end of the taxation year, and
 - (ii) the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction calculated under this clause for the taxation year);
- (b) an amount in respect of mining assets, other than mining assets for which an allowance for depreciation is calculated under clause (c), not in excess of the lesser of,
 - (i) the aggregate of 30 per cent of the capital cost, computed as of the end of the taxation year, of mining assets acquired after the 9th day of April, 1974, which have not been used

previously in mining operations and 15 per cent of the capital cost, computed as of the end of the taxation year, of any other mining assets, and

(ii) the undepreciated capital cost of the mining assets as of the end of the taxation year (before making any deduction calculated under this clause for the taxation year); and

(c) where a mine is a new mine or a major expansion of an existing mine designated by the Minister for the purpose of this clause, an amount at the option of the operator, instead of the amount calculated under clause (b), in respect of mining assets acquired after the 7th day of March, 1978, and before completion of the project from a person dealing at arm's length for use in the new mine or the major expansion, not exceeding the lesser of,

(i) the operator's profit for the taxation year from the new mine or the major expansion calculated in the prescribed manner, and

(ii) the undepreciated capital cost of the mining assets as of the end of the taxation year (before making any deduction calculated under this clause for the taxation year).

Exploration
and
development
expenditures

(7) For the purposes of clause (5) (g), the maximum amount deductible by an operator for a taxation year in respect of exploration and development expenditures is the aggregate of,

(a) exploration and development expenditures incurred in Ontario by the operator to the extent that such expenditures qualified as exploration and development expenditures under this Act at the time they were incurred; and

(b) exploration and development expenditures incurred by another person to the extent that,

(i) such expenditures qualified as exploration and development expenditures under this Act at the time they were incurred by the other person, and

(ii) such expenditures qualify to be renounced and have been renounced by the other person

in favour of the operator under subdivision e of Division B of Part I of the *Income Tax Act* (Canada) and have not been deducted by the other person under this Act or in the calculation of taxable income of the other person under Part I of the *Income Tax Act* (Canada),

R.S.C. 1952,
c. 148

less the aggregate of,

- (c) all amounts deducted under this Act by the operator in any previous taxation year in respect of exploration and development expenditures;
- (d) all amounts allowed as eligible exploration expenses under the *Ontario Mineral Exploration Program Act*;
- (e) the amount of any assistance or benefit from a government, municipality or other public authority in respect thereto, including any grant, subsidy, forgivable loan, investment allowance or other form of assistance or benefit received or receivable by the operator, other than a grant or tax credit under the *Ontario Mineral Exploration Program Act*; and
- (f) all exploration and development expenditures that qualify to be renounced and have been renounced by the operator in favour of another person under subdivision e of Division B of Part I of the *Income Tax Act* (Canada).

R.S.O. 1980,
c. 346

(8) For the purposes of this section, where an operator has deducted an amount under subsection 127 (5) of the *Income Tax Act* (Canada) in respect of depreciable property or has received or is entitled to receive assistance from a government, municipality or other public authority in respect of, or for the acquisition of, depreciable property, whether as a grant, subsidy, forgivable loan or any other form of assistance, the capital cost of the property shall be deemed to be the amount by which the aggregate of,

Reduction of
capital cost

- (a) the capital cost thereof to the operator determined without reference to this subsection; and
- (b) the part, if any, of the assistance that has been repaid by the operator before the disposition thereof by the operator,

exceeds the aggregate of,

R.S.C. 1952,
c. 148

- (c) all amounts deducted under subsection 127 (5) of the *Income Tax Act* (Canada); and
- (d) the amount of assistance the operator has received or is entitled to receive in respect of that property before the disposition thereof by the operator.

Non-al-
lowable
deductions

(9) No allowance or deduction shall be claimed or made under this section in respect of,

- (a) an outlay, loss or replacement of capital, a payment on account of capital or an amount in respect of depreciation, amortization, obsolescence or depletion, unless expressly permitted by this Act;
- (b) interest or dividends paid;
- (c) royalties for the right to extract mineral substances, or use real property in connection with the extraction of mineral substances, paid to any person other than Her Majesty in Right of Canada or Ontario; and
- (d) any income or profits tax and any tax on capital paid to any jurisdiction.

Undepre-
ciated
capital cost

(10) The undepreciated capital cost of any depreciable property at any time means the amount by which the aggregate of,

- (a) the capital cost of the property acquired before that time; and
- (b) all amounts included in profit by virtue of subsection (11) for a taxation year ending prior to that time,

exceeds the aggregate of,

- (c) the total of the amounts deducted under this Act before that time as an allowance for depreciation with respect to the property; and
- (d) for each disposition of the property or part thereof, the lesser of,
 - (i) the proceeds of disposition of the property or part, and
 - (ii) the capital cost of the property or part.

(11) Where, at the end of a taxation year, the aggregate of all amounts determined under clauses (10) (c) and (d) exceeds the aggregate of all amounts determined under clauses (10) (a) and (b), the excess shall be deemed to be proceeds for the purposes of clause (5) (a). Recapture

(12) Where any property is acquired from or transferred to a person not dealing at arm's length with the operator, the capital cost of the property to the purchaser for the purposes of this Act and the proceeds of disposition of the property for the purposes of this Act shall be deemed to be, Where not dealing at arm's length

- (a) the amount or amounts determined in the prescribed manner where the property is depreciable property referred to in subsection (6); and
- (b) fair market value where the property is not depreciable property referred to in subsection (6).

(13) Where output from a mine is sold to a purchaser who does not deal at arm's length with the operator, the amount of the proceeds for the purposes of clause (5) (a) shall be deemed to be the fair market value of the output. Idem

(14) Where any goods or services are obtained or acquired from a supplier who does not deal at arm's length with the operator for an amount that exceeds the fair market value of the goods or services, no amount in excess of the fair market value of the goods or services shall be deductible under subsection (5). Idem

(2) Subsections 3 (15) and (16) of the said Act are repealed.

4.—(1) Subsections 4 (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

(2) No deduction shall be made under clause 3 (5) (c) for operating and maintenance expenses related to social assets in Ontario that are attributable to a specified uranium undertaking. No deduction for certain operating and maintenance expenses

(3) Notwithstanding subsection 3 (6), Allowance for depreciation

- (a) no deduction shall be made under clause 3 (5) (h) in respect of processing assets not situate in Canada and assets for transporting processed mineral substances to market from the point at which the processing outside Canada is completed that are attributable to the operation of a specified uranium undertaking;

- (b) the deduction allowed under clause 3 (5) (h) in respect of processing assets situate in Canada, assets for transporting processed mineral substances to market from the point at which processing in Canada is completed and mining assets, attributable to the operation of a specified uranium undertaking, shall not be,
 - (i) greater than 15 per cent of the capital cost of the assets as of the end of the taxation year, and
 - (ii) less than the lesser of 5 per cent of the capital cost of the assets as of the end of the taxation year and the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction under clause 3 (5) (h) in respect of the assets for the taxation year); and
- (c) clause 3 (6) (c) does not apply for the purposes of determining an allowance for depreciation with respect to mining assets used in the operation of a specified uranium undertaking.

(2) Subsection 4 (5) of the said Act is amended by striking out “clause 3 (7) (n)” in the first line and inserting in lieu thereof “clause 3 (5) (g)” and by striking out “subclauses (i) and (ii) of” in the third line.

5. Section 5 of the said Act is repealed and the following substituted therefor:

Duty to give
notice of
active
operation

5.—(1) The operators of a mine from which any mineral substance is raised, taken or gained shall, within ten days after the commencement of active operation of the mine, give written notice to the Minister that the mine is in active operation, and such notice shall state the name and address of every operator of the mine.

Notice of
change

(2) Every operator of a mine that is in active operation shall forthwith give written notice to the Minister of every change in the operator's name or address and such notice shall contain an address for service of the operator where notices or demands under this Act may be given or served.

Service
of notice

(3) Any notice or demand required or provided for by this Act shall be deemed to have been properly and sufficiently given or served on the operator if mailed by registered mail to the address for service given by the operator, and in case no

address for service is given as herein required, the notice or demand shall be sufficiently given or served if mailed by registered mail to any address that the Minister considers most likely to bring the notice or demand to the attention of the operator.

(4) The operators of a mine shall forthwith give written notice to the Minister of every discontinuance of active operation of the mine and of every recommencement thereof after discontinuance.

Notice of
discon-
tinuance

(5) For the purposes of this section and section 6, a mine is in active operation when any operator thereof is regularly entitled to receive proceeds from the output of the mine.

Meaning of
"active
operation"

6. Subsection 6 (1) of the said Act is amended by striking out "mine assessor" in the fifth line and inserting in lieu thereof "Minister".

7.—(1) Subsection 7 (1) of the said Act is repealed and the following substituted therefor:

(1) On or before the last day of the month that ends six months following the close of the taxation year, every operator of a mine in Ontario shall, without notice or demand, deliver to the Minister a return containing an estimate of the tax for which the operator is liable and the return shall be verified by a certificate stating that the information included in the return is in agreement with the books required to be kept under this Act, and such certificate shall be signed by a person who has personal knowledge of the affairs of the operator and the mine, but the Minister may require the person who certified the return to verify under oath the return or any part thereof, and any person so required shall forthwith make and file with the Minister an affidavit verifying the truth of the matters and facts contained in the return.

Returns

(2) Subsection 7 (2) of the said Act is repealed and the following substituted therefor:

(2) Section 86 of the *Corporations Tax Act*, other than clause (1) (d) and subsection (4) thereof, applies for the purposes of this Act and in the application thereof,

Investigations
R.S.O. 1980,
c. 97

- (a) references to the corporation liable to pay tax under that Act shall be read as references to the operator under this Act; and

- (b) the reference in clause 86 (2) (a) to “a return as required by section 67” shall be read as “a return as required under this Act”.

8. Section 8 of the said Act is repealed and the following substituted therefor:

Notice of
assessment

8.—(1) The Minister shall with all due dispatch examine each return delivered under section 7 together with any other information furnished under this Act and shall assess the tax for the taxation year and the interest and penalties, if any, payable.

Interest on
unpaid tax

(2) Where the amount paid on account of the tax payable by the operator for a taxation year is less than the amount of tax payable for the taxation year, the operator liable to pay the tax shall pay interest on the difference between,

- (a) the amount of tax payable for the taxation year; and
- (b) the amount paid on account of the tax payable for the taxation year,

from the day on which the estimated amount of the tax payable for the taxation year is required to be paid under subsection 2 (1) to the day of payment of the tax, at the prescribed rate.

Interpretation

(3) For the purposes of subsections (2) and (9), the “amount paid on account of the tax payable” is the amount paid by the operator on account of the tax payable for the taxation year minus any amounts refunded to the operator or any amounts applied to other liability of the operator.

Idem

(4) For the purposes of subsections (2), (3) and (9), the “amount of tax payable” for a taxation year includes any penalty payable by the operator for the taxation year.

Assessments
and refunds
R.S.O. 1980,
c. 97

(5) Subsections 73 (5), (6), (9) and (10), section 74 and subsections 75 (1) and (2) of the *Corporations Tax Act* apply for the purposes of this Act and in the application thereof,

- (a) references to the “corporation” shall be read as references to the “operator”;
- (b) the reference to subsections 73 (5) and (9) of that Act in subsection 74 (2) shall be deemed to be a reference to those subsections as made applicable for the purposes of this Act;

- (c) the reference to "section 67" of that Act in subsection 75 (1) shall be read as "section 7" of this Act; and
- (d) the reference in subsection 75 (1) to special small corporations and to the payment of the balance of tax as required under sub-subclause 70 (2) (b) (i) (B) of that Act shall not be applicable.

(6) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at the prescribed rate shall be paid or applied thereon for the period commencing with the later of,

Interest on
overpayments

- (a) the day on which the overpayment arose; and
- (b) the day on or before which the balance of the tax payable for the taxation year is required to be paid under this Act,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection.

(7) Where by a decision of the Minister after the filing of an objection under section 10 or of a court it is finally determined that the tax payable under this Act by an operator for a taxation year is less than the amount assessed to which objection was made or from which the appeal was taken and the effect of the decision is that an overpayment has been made for the taxation year, the interest payable under subsection (6) on that overpayment shall be computed at the prescribed rate.

Idem

(8) Where an amount has been paid with respect to the provisions of section 92 of the *Corporations Tax Act*, as made applicable for the purposes of this Act, and the tax payable under this Act for the taxation year as finally determined is less than the payment, the interest payable on that overpayment shall be computed at such rate as is prescribed for the purposes of subsection (7) as though the day on which the overpayment arose is the day upon which the payment was made.

Idem
R.S.O. 1980,
c. 97

(9) Except as provided in subsection (8), "overpayment" means the aggregate of all amounts paid on account of tax payable for a taxation year less all amounts payable under this Act, or an amount so paid where no amount is payable under this Act.

Interpretation

Application
of payments
received
R.S.O. 1980,
c. 97

(10) Subsection 70 (6) of the *Corporations Tax Act* is applicable for the purposes of this Act and, in the application thereof, the references to "a corporation" and "the corporation" shall be read as "an operator" and "the operator", respectively.

9. Section 9 of the said Act is repealed and the following substituted therefor:

Reassessment

9.—(1) The Minister may,

- (a) at any time, if the operator filing a return,
 - (i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or
 - (ii) has failed to file the financial information with the return required to be filed under section 7, or
 - (iii) has been negligent in supplying any information under this Act, or
 - (iv) has filed with the Minister a waiver in the prescribed form within six years from the day of mailing of the notice of an original assessment; and
- (b) within six years of the day of mailing of the original notice of assessment in any other case,

reassess or make additional assessments, or assess a tax, interest or penalties, as the circumstances require.

Revocation
of waiver

(2) Where the Minister is authorized to issue an assessment under subsection (1) by reason only that the operator has filed a waiver under subclause (1) (a) (iv), the Minister may not issue an assessment later than one year after the date on which the operator has filed a notice of revocation of the waiver in the prescribed form.

Pension plan
withdrawals

(3) Notwithstanding subsection (1), where any amount is withdrawn by an operator from an employees' superannuation or pension fund or plan, the Minister may reassess the amount of tax payable by the operator under this Act for a maximum of ten taxation years immediately preceding the taxation year in which the withdrawal is made, and may disallow the deduction of all or any part of the amounts previously deducted by the operator in the calculation of the profit of the mine for

such taxation years with respect to contributions made by the operator and any predecessor thereof to such fund or plan, but in no case shall the total of the amounts disallowed for such taxation years exceed the lesser of the amount withdrawn from the fund or plan and the amount of such contributions to the fund or plan as determined in the prescribed manner.

10. Section 10 of the said Act is repealed and the following substituted therefor:

10. Sections 77, 78, 79, 80, 81, 82, 83 and 84 of the *Corporations Tax Act* apply for the purposes of this Act, and in the application thereof the following rules apply:

Objections
and appeals
R.S.O. 1980,
c. 97

1. References therein to “a corporation” and “the corporation” shall be read as “an operator” and “the operator”, respectively.
2. The reference to section 73 of that Act in subsection 77 (1) and clause 77 (6) (a) shall be read as a reference to sections 8 and 9 of this Act.
3. The reference in subsection 77 (5) to “clause 73 (7) (b) or (c)” shall be deemed to be a reference to clause 9 (1) (b) of this Act.
4. Clause 77 (6) (b) is not applicable for the purposes of this Act.
5. Clause 77 (6) (d) shall be read without reference to the words “if section 85 does not apply”.
6. All references therein to sections 77, 78 and 80 of that Act, and subsections thereof as applicable, shall be deemed to be references to those sections and subsections as made applicable by this section.
7. The reference to subsection 73 (10) in section 79 shall be deemed to be a reference to that subsection as made applicable by section 8 of this Act.

11. Section 11 of the said Act is repealed and the following substituted therefor:

11.—(1) Every operator shall keep at or near the mine, or at such place determined under subsection (3), proper books of account showing,

Books of
account

- (a) the quantity, weight, value, composition and other particulars of the mineral substances raised, taken or gained from the mine;
- (b) the returns from the processing plant;
- (c) the proceeds from the output of the mine;
- (d) each of the several expenses, payments and allowances deducted pursuant to section 3; and
- (e) any other facts and circumstances necessary or proper for ascertaining the amount of tax imposed by this Act.

Removal of
mineral
substances
from mining
premises

(2) No mineral substance raised, taken or gained from any mine shall be removed from the mining premises or processed at any processing plant until the weight of the mineral substance has been ascertained and entered in the books of account required to be kept under subsection (1).

Idem

(3) The Minister may determine the number and character of books required to be kept under subsection (1) and may require that the books of account mentioned in subsection (1) be kept at such place in Ontario as the Minister determines.

Costs

(4) Where the Minister permits books of account to be kept outside of Ontario, all costs incurred by the Minister to examine such books at the place where they are kept shall be reimbursed by the operator and the Minister may forthwith take all remedies available under this Act or at law to recover such costs.

Retention
of books
of account
R.S.O. 1980,
c. 97

(5) Subsection 87 (3) of the *Corporations Tax Act* is applicable for the purposes of this Act and, in the application thereof, the reference to "every corporation" shall be read as "every operator".

12. Section 12 of the said Act is repealed.

13. Subsection 13 (1) of the said Act is repealed and the following substituted therefor:

Entry to
mine

(1) Any person authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter upon any mine in Ontario and the operator of the mine shall,

- (a) permit such person to descend all pits and shafts and use all tackle, machinery, appliances and things

belonging to or under the control of the operator that the person considers necessary or expedient for the purposes of carrying out his or her duties under this subsection;

- (b) give to such person free ingress and egress to, from and over all buildings, erections, structures and vessels used in connection with the mine and any processing plant at which mineral substance taken from the mine is processed or in any way modified; and
- (c) permit the person to take such samples or specimens of mineral substance as the person considers necessary for the purpose of determining their value by assay or otherwise.

14. Sections 15 and 16 of the said Act are repealed and the following substituted therefor:

15. If any doubt or dispute arises as to the liability of an operator to pay the tax or any portion of the tax demanded under this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as the Minister considers proper.

Compromising disputes as to liability for tax

15. Section 18 of the said Act is repealed and the following substituted therefor:

18.—(1) Every operator who fails to pay any tax imposed under this Act or any estimate of tax required to be paid under this Act at the time provided is liable to a penalty of 10 per cent of the amount unpaid plus an additional penalty of 10 per cent of the amount unpaid for each twelve month period that the tax or estimate of tax remains unpaid.

Penalty for failure to pay tax

(2) Every operator who fails to deliver a return as and when required by section 7 shall pay a penalty of,

Penalty

- (a) an amount equal to 10 per cent of the tax that was unpaid when the return was required to be delivered, if the tax payable by the operator for the taxation year that was unpaid at that time was less than \$10,000; and
- (b) \$1,000, if at the time the return was required to be delivered tax payable by the operator equal to \$10,000 or more was unpaid.

Failure to
complete
return

(3) Every operator who fails to complete the information required on the return to be delivered under section 7 is liable to a penalty of 1 per cent of the tax payable by the operator under this Act, but such penalty shall not in any case be less than \$20 or more than \$100.

Statements
or omissions
in return

(4) Where a person, acting or purporting to act on behalf of an operator, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made, or has participated in, assented to or acquiesced in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") filed or made in respect of a taxation year as required by or under this Act or the regulations, the operator is liable to a penalty of 25 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable by the operator under this Act if the operator's profit for the taxation year was computed by adding to the operator's profit for the taxation year as reported by the operator in the return for the year that portion of the understatement of profit for the taxation year that is reasonably attributable to the false statement,

exceeds,

- (b) the tax for the year that would have been payable by the operator under this Act had the tax payable for the taxation year been assessed on the basis of the information provided in the operator's return for the taxation year.

16. Section 19 of the said Act is repealed and the following substituted therefor:

Offences

19.—(1) Every operator that fails to deliver a return as and when required by this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of not less than \$50 for each day of default.

Idem

R.S.O. 1980,
c. 97

(2) Every person who fails to comply with or contravenes subsection 86 (8) of the *Corporations Tax Act*, as made applicable by subsection 7 (2) of this Act, section 11 or subsection 13 (1), is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of \$25 for each day during which the default or contravention continues.

(3) Sections 89 and 90 of the *Corporations Tax Act* apply for the purposes of this Act. Officers of corporations

17. Section 20 of the said Act is repealed and the following substituted therefor:

20. Every person who has,

False statements

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of an operator;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of an operator;
- (d) wilfully in any manner evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by clauses (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years or to both fine and imprisonment.

18. Section 21 of the said Act is repealed and the following substituted therefor:

21.—(1) Subsections 92 (1), (2), (4) and (5) and sections 93, 94, 94a, 94b, 94c and 95 of the *Corporations Tax Act* apply with necessary modifications for the purposes of this Act and, without limiting the generality of the foregoing, references therein to “a corporation” and “the corporation” with respect to a person liable to pay an amount under that Act

Collection
R.S.O. 1980,
c. 97

shall be read as “an operator” and “the operator” for the purposes of this Act.

Unregistered
liens
discharged

(2) Any property of any kind that is, by virtue of any predecessor of this section, subject to a first lien and charge that is not registered in the proper land registry office, is absolutely discharged from such unregistered first lien and charge unless, in the case of real property, in any proceeding a claim has been made or other steps taken by the Minister with respect to such unregistered first lien and charge or, prior to the 1st day of January, 1988, a notice of such first lien and charge has been registered by the Minister in the proper land registry office.

19. Section 22 of the said Act is amended by striking out “county or district court” in the ninth line and inserting in lieu thereof “District Court”.

20. Sections 23 and 24 of the said Act are repealed.

21. Subsection 25 (1) of the said Act is repealed and the following substituted therefor:

Action to
recover
tax, etc.

(1) If any tax, interest or penalty imposed by this Act or the reimbursement required under subsection 11 (4) is not paid when due, the same may be recovered with costs from the operator by an action to be tried without a jury at the suit of the Minister in any court of competent jurisdiction.

22. Section 26 of the said Act is repealed and the following substituted therefor:

Regulations

26.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing rates of interest for the purposes of this Act or a formula for computing those rates and the method of calculating that interest;
- (b) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (c) prescribing anything that by this Act is to be prescribed or is to be determined by the regulations;
- (d) defining any word or expression used in this Act or the regulations made under this Act that has not already been expressly defined in this Act;

- (e) prescribing forms and providing for their use;
- (f) prescribing the manner of determining the profit for the taxation year of an operator who is a member of a partnership or a beneficiary of a trust where the partnership or trust is operating a mine; and
- (g) prescribing the manner of determining and the matters to be taken into account in determining whether there is a mine project that is a new mine or a major expansion of an existing mine for the purposes of clause 3 (6) (c) and the time at which a mine project is completed.

(2) A regulation made under subsection (1) may be made effective retroactively to a date not earlier than the 1st day of January, 1974.

Regulation
may be
retroactive

23.—(1) Where,

Transitional

- (a) a person has delivered to the Minister, before the 15th day of May, 1986, a written notice of appeal within the time required under subsection 10 (1) of the *Mining Tax Act* as that subsection read immediately before the 15th day of May, 1986; and
- (b) the appeal referred to in clause (a) has not been, before the 15th day of May, 1986,
 - (i) referred to the Mining and Lands Commissioner or the Ontario Municipal Board under subsection 10 (2) of the *Mining Tax Act* as that subsection read immediately before the 15th day of May, 1986, or
 - (ii) set down for hearing and determination by the Divisional Court under subsection 10 (4) of the *Mining Tax Act* as that subsection read immediately before the 15th day of May, 1986,

the written notice of appeal shall be deemed to be a notice of objection served on the Minister for the purposes of the application of sections 8 and 10 of the *Mining Tax Act*, as re-enacted by sections 8 and 10 respectively of this Act.

(2) All references in the provisions of the *Mining Tax Act* as they read immediately before the day this Act receives Royal Assent and which remain applicable in respect of taxation years ending on or before the 31st day of March, 1986, and in

Idem

the regulations made under the said Act, to the "mine assessor" shall be deemed to be references to the "Minister".

Idem

(3) In the application of section 9 of the *Mining Tax Act*, as re-enacted by section 9 of this Act,

- (a) where an assessment, reassessment or additional assessment is made on or before the day this Act receives Royal Assent, references in section 9, as re-enacted, to the "Minister" shall be deemed to be references to the "mine assessor";
- (b) where an assessment, reassessment or additional assessment is made in respect of a taxation year ending before the 1st day of April, 1986, references in subclause 9 (1) (a) (iv) and clause 9 (1) (b) to "six years" shall be read as references to "four years"; and
- (c) subsection 9 (3) applies only in respect of amounts withdrawn from an employees' superannuation or pension fund or plan after the 31st day of March, 1986.

Commencement
and
application

24.—(1) This Act, except as provided in subsections (2) to (7), comes into force on the day it receives Royal Assent.

Idem

(2) Section 19 shall be deemed to have come into force on the 1st day of January, 1985.

Idem

(3) Subsections 1 (2), (4), (7) to (9) and section 2 of this Act, subsections 3 (1) to (11) of the said Act, as re-enacted by subsection 3 (1) of this Act, subsection 3 (2), section 4 and subsection 7 (1) of this Act shall be deemed to have come into force on the 1st day of April, 1986, and apply in respect of taxation years ending after the 31st day of March, 1986.

Idem

(4) Subsection 3 (12) to (14) of the said Act, as re-enacted by subsection 3 (1) of this Act, shall be deemed to have come into force on the 1st day of April, 1986, and apply in respect of acquisitions, transfers, dispositions and sales made after the 31st day of March, 1986.

Idem

(5) Section 9 shall be deemed to have come into force on the 1st day of April, 1986, and applies in respect of assessments, reassessments and additional assessments made after the 31st day of March, 1986, in respect of any taxation year.

Idem

(6) Subsections 1 (3) and (5) shall be deemed to have come into force on the 15th day of May, 1986.

(7) Section 10 shall be deemed to have come into force on ^{Idem} the 15th day of May, 1986, and applies in respect of assessments issued after the 14th day of April, 1986.

25. The short title of this Act is the *Mining Tax Amendment* ^{Short title} *Act, 1987.*

Bill 190

An Act to amend the Mental Health Act

The Hon. M. Elston

Minister of Health

1st Reading January 28th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. Clause 1 (j), the definition of "nearest relative", is repealed. It provides:

(j) "*nearest relative*" means,

- (i) *a person to whom the person is married, with whom the person is living and who has attained the age of sixteen years and is mentally competent, or*
- (ii) *if none or if none is available, a person of the opposite sex with whom the person is living outside marriage in a conjugal relationship and who has attained the age of sixteen years and is mentally competent, if the two persons,*
 - (A) *have cohabited for at least one year,*
 - (B) *are together the parents of a child, or*
 - (C) *have together entered into a cohabitation agreement under section 53 of the Family Law Act, 1986,*
- (iii) *if none or if none is available, any one of the children who has attained the age of sixteen years and is mentally competent, or*
- (iv) *if none or if none is available, either of the parents who is mentally competent or the guardian, or*
- (v) *if none or if none is available, any one of the brothers or sisters who has attained the age of sixteen years and is mentally competent, or*
- (vi) *if none or if none is available, any other of the next of kin who has attained the age of sixteen years and is mentally competent.*

In the present Act, the nearest relative is given the right to consent on behalf of a patient who is under sixteen or not mentally competent to disclosure of a clinical record and, if the patient is an involuntary patient, to treatment, and is given the right on behalf of such a patient to have access to a clinical record. The Bill establishes a different regime of substitute consent in section 2.

SECTION 2. The Bill gives persons the right while they are mentally competent to appoint any representative to consent on their behalf in the event that they become not mentally competent for the purposes of the *Mental Health Act*. It provides a rank order for persons to consent on behalf of a patient or former patient who is under sixteen or not mentally competent, as follows:

1. The person appointed as the patient's committee.
2. The patient's representative.
3. The patient's married or common law spouse.
4. A child of the patient.
5. A parent of the patient or person with custody of the patient.
6. A brother or sister of the patient.
7. Another next of kin of the patient.

Persons are required to give or refuse consent on behalf of a patient on the basis of the patient's wishes, if known, and on the basis of the best interest of the patient otherwise.

SECTIONS 3 and 4. Ancillary to sections 1 and 2.

SECTIONS 5 and 6. Section 35 deals with treatment orders. The Act, as amended by the Statutes of Ontario, 1986, chapter 64 (Bill 7), provides that a patient's attending physician may apply to the review board for an order that specified treatment be given to a patient who is an involuntary patient, not mentally competent and without a nearest relative available to consent on his or her behalf. However, in all other cases, treatment cannot be provided to a patient without the patient's consent or the consent of the nearest relative. Section 5 of the Bill would change this by allowing the attending physician to apply to the review board for an order for specified treatment, other than electroconvulsive therapy, if two physicians certify that they believe the mental condition of the patient is likely to be substantially improved by the treatment and is not likely to improve without the treatment. Without such an order or in the case of a voluntary patient, the doctor must have the consent of the patient, if competent, or the consent of the person designated under section 2, above, on behalf of the patient in order to proceed with treatment. The best interests of the patient for the purpose of a substitute consent are to be determined in terms of whether the condition of the patient is likely to be substantially improved by the treatment and whether the condition of the patient will improve without the treatment.

Bill 190

1987

An Act to amend the Mental Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (j) of the *Mental Health Act*, being chapter 262 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

2. The said Act is amended by adding thereto the following sections:

1a.—(1) In this section and section 1b, “patient” includes a former patient, out-patient and former out-patient. Interpretation

(2) A person may give or refuse consent on behalf of a patient who has not attained the age of sixteen years or is not mentally competent if the person has attained the age of sixteen years, is apparently mentally competent, is available and willing to give or refuse consent and is described in one of the following paragraphs: Substitute consent

1. The committee of the patient appointed under the *Mental Incompetency Act*. R.S.O. 1980,
c. 264

2. The patient’s representative appointed under section 1b.

3. The person to whom the patient is married or the person of the opposite sex with whom the patient is living outside marriage in a conjugal relationship or was living outside marriage in a conjugal relationship immediately before being admitted to the psychiatric facility, if in the case of unmarried persons they,

(i) have cohabited for at least one year,

(ii) are together the parents of a child, or

1986, c. 4

(iii) have together entered into a cohabitation agreement under section 53 of the *Family Law Act, 1986*.

4. A child of the patient.

5. A parent of the patient or a person who has lawful custody of the patient.

6. A brother or sister of the patient.

7. Any other next of kin of the patient.

Refusal

(3) If a person in a category in subsection (2) refuses consent on the patient's behalf, the consent of a person in a subsequent category is not valid.

Preference

(4) If two or more persons who are described in different paragraphs of subsection (2) claim the authority to give or refuse consent on behalf of a patient, the claim of the person who is described in the paragraph occurring first in that subsection prevails.

Conflict

(5) If two or more persons who are described in the same paragraph of subsection (2) claim the authority to give or refuse consent on behalf of a patient, if they disagree about whether to give or refuse consent and if their claims would prevail over any other claims under subsection (4), the refusal prevails.

Consent
by
relative

(6) A person described in paragraphs 3, 4, 5, 6 or 7 of subsection (2) may not give or refuse consent on a patient's behalf unless the person makes a statement in writing certifying,

(a) the person's relationship to the patient;

(b) that the person has been in personal contact with the patient over the preceding twelve month period;

(c) that the person is willing to assume the responsibility for consent or refusing consent; and

(d) that the person is not aware of any other person described in the same paragraph or in a previous paragraph who claims the authority to give or refuse consent.

Basis for
substitute
consent

(7) A person authorized to give or refuse consent on behalf of a patient shall do so in accordance with the wishes of the

patient if the person knows that the patient expressed any such wishes when apparently mentally competent and at least sixteen years of age and in accordance with the best interests of the patient if the person does not know of any such wishes.

(8) A person who seeks another person's consent on a patient's behalf is entitled to rely on the accuracy of the other person's written statement under subsection (6), unless it is not reasonable to do so.

Reliance
on
statement

(9) A person seeking consent on behalf of a patient is not liable for failing to request the consent of another person entitled to give or refuse consent on behalf of the patient if, after reasonable inquiries, the person did not find the other person.

Reasonable
inquiries

1b.—(1) A person who has attained the age of sixteen years and is mentally competent to do so has the right to appoint a representative who has attained the age of sixteen years and is apparently mentally competent to give or refuse consent on behalf of the person for the purpose of paragraph 2 of subsection 1a (2).

Patient's
representative

(2) An appointment of a representative shall be made in writing in the presence of a witness.

Appointment
in writing

(3) An appointment may be subject to such conditions and restrictions, if any, as are contained in it and not inconsistent with this Act.

Conditions

(4) A physician who admits or registers a patient to a psychiatric facility shall promptly inform the patient in writing of the patient's right under subsection (1).

Notice by
physician

(5) The officer in charge shall promptly inform all persons who are patients of the facility at the time of the coming into force of this Act, other than former patients and former out-patients, in writing of their rights under subsection (1).

Transitional

(6) The notice shall be in the form prescribed by the regulations and shall inform the patient of the powers and responsibilities of a representative under this Act.

Contents
of notice

(7) If a patient gives or transmits to the officer in charge a statement in writing appointing a representative, the officer in charge shall transmit the statement to the representative forthwith.

Appointment
of repre-
sentative

(8) A patient who has appointed a representative may revoke in writing the appointment and may appoint in writing a new representative while mentally competent to do so, and

Revocation

subsection (7) applies with necessary modifications in respect of the revocation and new appointment.

3.—(1) Clause 29 (3) (b) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out “nearest relative of the patient” in the third and fourth lines and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

(2) Clause 29 (3) (e) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out “nearest relative of the patient” in the third and fourth lines and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

(3) Subsection 29 (3a) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

(4) Clause 29 (9) (b) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out “nearest relative of the patient” in the third line and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

(5) Clause 29 (9) (c) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out “nearest relative of the patient” in the sixth and seventh lines and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

4.—(1) Subsection 29a (16) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by striking out “patient’s nearest relative” in the second and third lines and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

(2) Subsection 29a (17) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by striking out “patient’s nearest relative” in the third line and inserting in lieu thereof “person”.

5. Section 35 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

- (a) “electroconvulsive therapy” means the procedure for the treatment of certain mental disorders that induces, by electrical stimulation of the brain, a series of generalized convulsions;
- (b) “having the ability to understand the subject matter in respect of which consent is requested” in the definition of “mentally competent” means having the ability to understand the nature of the illness for which treatment is proposed and the treatment proposed; and
- (c) “psychosurgery” means any procedure that, by direct or indirect access to the brain, removes, destroys or interrupts the continuity of histologically normal brain tissue, or which inserts indwelling electrodes for pulsed electrical stimulation for the purpose of altering behaviour or treating psychiatric illness, but does not include neurological procedures used to diagnose or treat organic brain conditions or to diagnose or treat intractable physical pain or epilepsy where these conditions are clearly demonstrable.

(2) Psychiatric and other related medical treatment shall not be given to a patient, Consent
to
treatment

- (a) where the patient has attained the age of sixteen years and is mentally competent, without the consent of the patient;
- (b) where the patient has not attained the age of sixteen years or is not mentally competent,
 - (i) without the consent of a person authorized by section 1a to consent on behalf of the patient,
 - (ii) unless the review board has made an order authorizing the giving of the specified psychiatric and other related medical treatment, or
 - (iii) unless a physician certifies in writing that there is imminent and serious danger to the life, a limb or a vital organ of the patient requiring immediate treatment and the physician believes that delay in obtaining consent would endanger the life, a limb or a vital organ of the patient.

No psycho-
surgery

(3) The consent of an involuntary patient or a person who is authorized by section 1a to consent on behalf of an involuntary patient to psychiatric and other related medical treatment does not include and shall not be deemed to include psycho-surgery.

Best
interests

(4) A person authorized to give or refuse consent on behalf of a patient shall consider the following factors to determine whether a specified psychiatric treatment and other related medical treatment are in the best interests of a patient,

- (a) whether the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment; and
- (b) whether the mental condition of the patient will improve or is likely to improve without the specified psychiatric treatment.

6. The said Act is further amended by renumbering section 35a, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, as section 35d and by adding thereto the following sections:

Application
to review
board

35a.—(1) The attending physician of an involuntary patient may apply to the review board for an order authorizing the giving of specified psychiatric and other related medical treatment to the patient,

- (a) where the patient has attained the age of sixteen years and is mentally competent to consent to such treatment, if the patient has refused to consent;
- (b) where the patient has not attained the age of sixteen years or is not mentally competent,
 - (i) if a person authorized under section 1a to consent to such treatment on the patient's behalf has refused to consent,
 - (ii) if there is no person available who is authorized under section 1a to consent to such treatment on the patient's behalf, or
 - (iii) under the circumstances described in subsection 1a (4).

Material on
application

(2) The review board shall not consider an application unless it is accompanied by statements signed by the attending physician and a psychiatrist who is not a member of the medi-

cal staff of the psychiatric facility, each stating that they have examined the patient and that they are of the opinion that,

- (a) the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment; and
- (b) the mental condition of the patient will not improve or is not likely to improve without the specified psychiatric treatment.

(3) Each of the opinions in the statements described in subsection (2) shall be supported with reasons. Reasons for opinions

(4) The review board by order may authorize the giving of the specified psychiatric and other related medical treatment if it is satisfied that, Basis for decision

- (a) the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment; and
- (b) the mental condition of the patient will not improve or is not likely to improve without the specified psychiatric treatment.

(5) An order may include terms and conditions and shall specify the period of time during which it is effective. Terms and conditions

(6) No order of the board is or shall be deemed to be authority to perform psychosurgery or to administer electroconvulsive therapy. No psychosurgery, E.C.T.

(7) The attending physician, the patient, where the patient has attained the age of sixteen years and is mentally competent, and such other persons as the review board may specify are parties to the proceedings before the review board. Parties

(8) Where the patient has not attained the age of sixteen years or is not mentally competent, Idem

- (a) the person authorized under section 1a to consent on the patient's behalf;
- (b) under the circumstances described in subsection 1a(4), all of the persons described therein; or
- (c) if there is no person available who is authorized under section 1a to consent on the patient's behalf, the Official Guardian,

are parties to the proceedings in the place of the patient.

Treatment
pending
appeal

(9) Where a party appeals an order authorizing the providing of specific psychiatric and other related medical treatment or a specific course of psychiatric and other related medical treatment to a patient, the treatment or course of treatment shall not be provided pending the outcome of the appeal, unless otherwise ordered by a judge of the court appealed to.

Procedure

(10) Sections 33a, 33b, 33c, 33d, 33e and 33f apply with necessary modifications to an application under subsection (1).

Application
for review of
patient
determined
incompetent

35b.—(1) An involuntary patient determined to be not mentally competent for the purpose of sections 35 or 35a may apply in the prescribed form to the review board to inquire into whether the patient is not mentally competent.

Idem

(2) If an application is made under subsection (1), the proposed psychiatric treatment shall not be given until the matter is determined by the review board or, where the patient appeals its decision, until the matter is finally determined, unless otherwise ordered by a judge of the court appealed to.

Idem

(3) Sections 33, 33a, 33b, 33c, 33d, 33e and 33f apply with necessary modifications to an application under subsection (1).

Treatment
for persons
detained
under
R.S.C. 1970,
c. C-34

35c. Sections 35, 35a and 35b apply with necessary modifications to a person who is remanded or detained in a psychiatric facility pursuant to the *Criminal Code* (Canada), as if the person were an involuntary patient.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *Mental Health Amendment Act, 1987*.

Bill 191

An Act to provide for the Safety and Welfare of Crown Witnesses in Certain Criminal Proceedings

Mr. Runciman

1st Reading January 29th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Act allows the Attorney General to offer protection, including relocation and a new identity, to Crown witnesses whose lives or safety are jeopardized by their willingness to testify at certain criminal proceedings.

Where the offer of protection is accepted, its terms must be set out in a memorandum of understanding between the witness and the Attorney General. If there is a dispute as to the terms of the memorandum, the matter may be referred to a member of the Criminal Injuries Compensation Board for a hearing and report, including a recommendation for settlement.

Bill 191

1987

**An Act to provide for the
Safety and Welfare of Crown Witnesses
in Certain Criminal Proceedings**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the Criminal Injuries Compensation Board continued under the *Compensation for Victims of Crime Act*;

R.S.O. 1980,
c. 82

“Minister” means the Attorney General;

“witness” means a person whom the Crown intends to call or has called as a witness in a criminal proceeding.

2.—(1) Subject to section 3, the Minister may offer to provide protection to a witness whose life or health is likely to be in danger as a result of giving or intending to give testimony in a criminal proceeding.

Minister may
offer
protection
to Crown
witness

(2) The protection provided by the Minister under this Act may include, but is not limited to,

Nature of
protection

- (a) protection for the witness, his or her spouse and children;
- (b) protection before or after the proceedings in which the witness is to testify, or both;
- (c) relocation to any place in Canada or, if necessary, in the United States of America;
- (d) an undertaking to provide a new identity, including a past history and work record;
- (e) temporary or permanent financial assistance; and

- (f) assistance in obtaining employment.

Factors
relating to
offer of
protection

3. Before offering protection to a witness under this Act, the Minister shall consider,

- (a) the seriousness of the offence to which the proceedings in which the witness is to testify relate;
- (b) alternative sources of testimony; and
- (c) the risk of danger to the public as a result of the relocation of the witness.

Memorandum
of
understanding

4.—(1) Where a witness accepts the Minister's offer of protection, the terms of the offer shall be set out in a memorandum to be signed by the witness before the witness testifies in the proceeding.

Idem

(2) A witness is not entitled to protection under this Act until the Minister has received the signed memorandum.

Obligations
of witness

(3) The memorandum shall be in the form approved by the Minister and shall include the witness's agreement, in exchange for protection,

- (a) to testify in the proceeding;
- (b) to take all necessary steps to avoid detection; and
- (c) to abide by all laws.

Dispute as to
terms of
memorandum

5.—(1) Where a dispute arises with respect to the terms of a memorandum, the Minister shall, at the request of the witness, refer the matter to a member of the Board for a hearing to be held *in camera*.

Parties

(2) The witness, the Minister or his or her delegate and any other person added by the Board member shall be parties to the hearing.

Notice

(3) The Board member shall fix a time and place for the hearing and, unless all parties waive notice of the hearing, shall notify the parties at least ten days before the day fixed.

Report

(4) The Board member shall report his or her conclusions, including a recommendation for the settlement of the dispute, to the Minister.

Idem

(5) A copy of the report shall be served on the other parties.

(6) The Minister shall consider the Board member's report and may implement its recommendations. Consideration of report

6. The Minister may disclose the identity or location of a protected witness if, in his or her opinion, the benefit of the disclosure to the person requesting the information outweighs the risk to the witness. Disclosure of witness identity or location

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

8. The short title of this Act is the *Crown Witness Protection Act, 1987*. Short title

Bill 192

An Act to amend the Regional Municipality of Hamilton-Wentworth Act and the Municipal Elections Act

The Hon. B. Grandmaître
Minister of Municipal Affairs

1st Reading February 2nd, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill has three purposes as follows:

1. The Bill provides for the election of the chairman of the Regional Council by general vote of the electors of the area municipalities. (sections 4, 5, 6 and 11)
2. The Bill changes references to the Town of Stoney Creek and the Township of Flamborough to read as references to the City of Stoney Creek and the Town of Flamborough. The status and name of the two municipalities were changed in 1984 and 1985, respectively, by orders in council made under the Act. (sections 1, 2, 3, 7, 8, 9 and 10)
3. The reference to the number of aldermen elected by wards in the Town of Flamborough is changed from nine to seven. This reflects an order of the Ontario Municipal Board in 1982. (section 3)

Bill 192

1987

**An Act to amend the
Regional Municipality of Hamilton-Wentworth Act
and the Municipal Elections Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (a) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) "area municipality" means the municipality or corporation of the City of Hamilton, the Town of Dundas, the City of Stoney Creek, the Town of Ancaster, the Town of Flamborough and the Township of Glanbrook, all as constituted or continued by section 2.

2. Section 2 of the said Act is amended by adding thereto the following subsections:

(5) Effective the 1st day of January, 1984, The Corporation of the Town of Stoney Creek is erected into a city municipality bearing the name The Corporation of the City of Stoney Creek.

City of
Stoney Creek

(6) Effective the 1st day of January, 1985, The Corporation of the Township of Flamborough is erected into a town municipality bearing the name The Corporation of the Town of Flamborough.

Town of
Flamborough

3. Paragraphs 3 and 5 of subsection 3 (1) of the said Act are repealed and the following substituted therefor:

3. The City of Stoney Creek—seven members elected by wards and one member elected by general vote of the electors of such municipality.

.

5. The Town of Flamborough—seven members elected by wards and one member elected by general vote of the electors of such municipality.

4. Sections 6 and 7 of the said Act are repealed and the following substituted therefor:

Composition
of Regional
Council

6. The Regional Council shall consist of twenty-eight members composed of,

- (a) a chairman elected by general vote of the electors of all the area municipalities;
- (b) the mayor of each area municipality;
- (c) sixteen members of council from the City of Hamilton being the remainder of the council of the City;
- (d) one member of council from the Town of Dundas elected by general vote of the electors of the said area municipality as a member of the Regional Council and the council of such area municipality;
- (e) one member of council from the City of Stoney Creek elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality;
- (f) one member of council from the Town of Ancaster elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality;
- (g) one member of council from the Town of Flamborough elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality; and
- (h) the member of the council of the Township of Glanbrook elected by general vote.

Qualifi-
cations of
chairman

7.—(1) A person is qualified to hold office as chairman of the Regional Council,

- (a) if the person is entitled to be an elector under section 12 or 13 of the *Municipal Elections Act* for the election of members of the council of an area municipality; and

R.S.O. 1980,
c. 308

- (b) if the person is not disqualified by this or any other Act from holding the office of chairman.

(2) For the purpose of electing the chairman of the Regional Council,

Election of
chairman

- (a) the clerk of the area municipality with the greatest number of electors shall be the returning officer for the election;
- (b) the nominations for chairman shall be filed with the clerk of the area municipality with the greatest number of electors who shall send the names of the candidates to the clerk of each of the other area municipalities by registered mail within forty-eight hours after the closing of nominations; and
- (c) the clerk of each area municipality shall be the returning officer for the vote to be recorded in such area municipality and shall forthwith report the vote recorded to the clerk of the area municipality with the greatest number of electors who shall prepare the final summary and announce the vote.

5. Section 8 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 46, section 4, is further amended by adding thereto the following subsection:

(3a) Where a person is elected as chairman of the Regional Council, the clerk of the area municipality with the greatest number of electors, forthwith after the election, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of the person who has been so elected and the person shall not take the office of chairman until the clerk of the Regional Corporation has received such a certificate in respect of the person.

Idem

6. Subsections 11 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

(1) If a vacancy occurs in the office of chairman of the Regional Council, sections 45, 46 and 47 of the *Municipal Act* apply with necessary modifications to the filling of the vacancy as though that office were the office of mayor.

Vacancy in
office of
chairman
R.S.O. 1980,
c. 302

Where
chairman
member of
area council

(2) Where in filling a vacancy a member of the council of an area municipality becomes chairman, the person shall be deemed to have resigned as a member of such council, and the person's seat on such council thereby becomes vacant.

7. Clause 61 (b) of the said Act is repealed and the following substituted therefor:

(b) "area municipality" means the municipality or corporation of the Town of Ancaster, the Town of Dundas, the City of Stoney Creek, the Town of Flamborough and the Township of Glanbrook.

8. Subsections 62 (6), (7), (8) and (9) of the said Act are repealed.

9.—(1) Subsection 65 (1) of the said Act is amended by striking out "Township" in the second line and inserting in lieu thereof "Town".

(2) Clause 65 (2) (a) of the said Act is amended by striking out "Township" in the second line and inserting in lieu thereof "Town".

(3) Clause 65 (2) (b) of the said Act is amended by striking out "Township" in the second line and inserting in lieu thereof "Town".

10. Subsection 66 (1) of the said Act is repealed and the following substituted therefor:

Where
Ontario
Hydro
to distribute
and supply
power

(1) Ontario Hydro shall continue to distribute and supply power in those areas of the towns of Ancaster and Flamborough and the Township of Glanbrook that Ontario Hydro served immediately before the 19th day of June, 1980.

11.—(1) Clause 2 (a) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subclause:

(v) chairman of the council of The Regional Municipality of Hamilton-Wentworth.

(2) Clause 44 (7) (a) of the said Act is amended by adding thereto the following subclause:

(vi) chairman of the council of The Regional Municipality of Hamilton-Wentworth.

(3) Subsection 49 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, is further amended by adding thereto the following paragraph:

- 2a. In The Regional Municipality of Hamilton-Wentworth, the elector is entitled to vote once only for one candidate for chairman of the Regional Council.

(4) Section 49 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 10 and 1986, chapter 29, section 12, is further amended by adding thereto the following subsection:

(1a) Notwithstanding subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in The Regional Municipality of Hamilton-Wentworth shall not vote in more than one of such polling subdivisions in an election for the office of chairman of the Regional Council.

One vote for
chairman of
Regional
Council

12.—(1) This Act, except sections 4, 5, 6 and 11, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Sections 4, 5, 6 and 11 come into force on the 1st day of December, 1988.

Idem

(3) Notwithstanding subsection (2), the regular elections to be held in 1988 under the *Municipal Elections Act* shall be conducted as if sections 4, 5, 6 and 11 were in force.

First election
of chairman
R.S.O. 1980,
c. 308

13. The short title of this Act is the *Regional Municipality of Hamilton-Wentworth Statute Law Amendment Act, 1987*.

Short title

Bill 192

*(Chapter 12
Statutes of Ontario, 1987)*

An Act to amend the Regional Municipality of Hamilton-Wentworth Act and the Municipal Elections Act

The Hon. B. Grandmaître
Minister of Municipal Affairs

<i>1st Reading</i>	February 2nd, 1987
<i>2nd Reading</i>	February 10th, 1987
<i>3rd Reading</i>	February 11th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 192

1987

**An Act to amend the
Regional Municipality of Hamilton-Wentworth Act
and the Municipal Elections Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (a) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) "area municipality" means the municipality or corporation of the City of Hamilton, the Town of Dundas, the City of Stoney Creek, the Town of Ancaster, the Town of Flamborough and the Township of Glanbrook, all as constituted or continued by section 2.

2. Section 2 of the said Act is amended by adding thereto the following subsections:

(5) Effective the 1st day of January, 1984, The Corporation of the Town of Stoney Creek is erected into a city municipality bearing the name The Corporation of the City of Stoney Creek. City of
Stoney Creek

(6) Effective the 1st day of January, 1985, The Corporation of the Township of Flamborough is erected into a town municipality bearing the name The Corporation of the Town of Flamborough. Town of
Flamborough

3. Paragraphs 3 and 5 of subsection 3 (1) of the said Act are repealed and the following substituted therefor:

3. The City of Stoney Creek—seven members elected by wards and one member elected by general vote of the electors of such municipality.

.

5. The Town of Flamborough—seven members elected by wards and one member elected by general vote of the electors of such municipality.

4. Sections 6 and 7 of the said Act are repealed and the following substituted therefor:

Composition
of Regional
Council

6. The Regional Council shall consist of twenty-eight members composed of,

- (a) a chairman elected by general vote of the electors of all the area municipalities;
- (b) the mayor of each area municipality;
- (c) sixteen members of council from the City of Hamilton being the remainder of the council of the City;
- (d) one member of council from the Town of Dundas elected by general vote of the electors of the said area municipality as a member of the Regional Council and the council of such area municipality;
- (e) one member of council from the City of Stoney Creek elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality;
- (f) one member of council from the Town of Ancaster elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality;
- (g) one member of council from the Town of Flamborough elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality; and
- (h) the member of the council of the Township of Glanbrook elected by general vote.

Qualifi-
cations of
chairman

7.—(1) A person is qualified to hold office as chairman of the Regional Council,

- (a) if the person is entitled to be an elector under section 12 or 13 of the *Municipal Elections Act* for the election of members of the council of an area municipality; and

R.S.O. 1980,
c. 308

- (b) if the person is not disqualified by this or any other Act from holding the office of chairman.

(2) For the purpose of electing the chairman of the Regional Council,

Election of
chairman

- (a) the clerk of the area municipality with the greatest number of electors shall be the returning officer for the election;
- (b) the nominations for chairman shall be filed with the clerk of the area municipality with the greatest number of electors who shall send the names of the candidates to the clerk of each of the other area municipalities by registered mail within forty-eight hours after the closing of nominations; and
- (c) the clerk of each area municipality shall be the returning officer for the vote to be recorded in such area municipality and shall forthwith report the vote recorded to the clerk of the area municipality with the greatest number of electors who shall prepare the final summary and announce the vote.

5. Section 8 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 46, section 4, is further amended by adding thereto the following subsection:

(3a) Where a person is elected as chairman of the Regional Council, the clerk of the area municipality with the greatest number of electors, forthwith after the election, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of the person who has been so elected and the person shall not take the office of chairman until the clerk of the Regional Corporation has received such a certificate in respect of the person.

Idem

6. Subsections 11 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

(1) If a vacancy occurs in the office of chairman of the Regional Council, sections 45, 46 and 47 of the *Municipal Act* apply with necessary modifications to the filling of the vacancy as though that office were the office of mayor.

Vacancy in
office of
chairman
R.S.O. 1980,
c. 302

Where
chairman
member of
area council

(2) Where in filling a vacancy a member of the council of an area municipality becomes chairman, the person shall be deemed to have resigned as a member of such council, and the person's seat on such council thereby becomes vacant.

7. Clause 61 (b) of the said Act is repealed and the following substituted therefor:

(b) "area municipality" means the municipality or corporation of the Town of Ancaster, the Town of Dundas, the City of Stoney Creek, the Town of Flamborough and the Township of Glanbrook.

8. Subsections 62 (6), (7), (8) and (9) of the said Act are repealed.

9.—(1) Subsection 65 (1) of the said Act is amended by striking out "Township" in the second line and inserting in lieu thereof "Town".

(2) Clause 65 (2) (a) of the said Act is amended by striking out "Township" in the second line and inserting in lieu thereof "Town".

(3) Clause 65 (2) (b) of the said Act is amended by striking out "Township" in the second line and inserting in lieu thereof "Town".

10. Subsection 66 (1) of the said Act is repealed and the following substituted therefor:

Where
Ontario
Hydro
to distribute
and supply
power

(1) Ontario Hydro shall continue to distribute and supply power in those areas of the towns of Ancaster and Flamborough and the Township of Glanbrook that Ontario Hydro served immediately before the 19th day of June, 1980.

11.—(1) Clause 2 (a) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subclause:

(v) chairman of the council of The Regional Municipality of Hamilton-Wentworth.

(2) Clause 44 (7) (a) of the said Act is amended by adding thereto the following subclause:

(vi) chairman of the council of The Regional Municipality of Hamilton-Wentworth.

(3) Subsection 49 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, is further amended by adding thereto the following paragraph:

- 2a. In The Regional Municipality of Hamilton-Wentworth, the elector is entitled to vote once only for one candidate for chairman of the Regional Council.

(4) Section 49 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 10 and 1986, chapter 29, section 12, is further amended by adding thereto the following subsection:

(1a) Notwithstanding subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in The Regional Municipality of Hamilton-Wentworth shall not vote in more than one of such polling subdivisions in an election for the office of chairman of the Regional Council.

One vote for
chairman of
Regional
Council

12.—(1) This Act, except sections 4, 5, 6 and 11, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Sections 4, 5, 6 and 11 come into force on the 1st day of December, 1988.

Idem

(3) Notwithstanding subsection (2), the regular elections to be held in 1988 under the *Municipal Elections Act* shall be conducted as if sections 4, 5, 6 and 11 were in force.

First election
of chairman
R.S.O. 1980,
c. 308

13. The short title of this Act is the *Regional Municipality of Hamilton-Wentworth Statute Law Amendment Act, 1987*.

Short title

Bill 193

An Act to amend the Planning Act, 1983

Mr. Johnston

<i>1st Reading</i>	February 2nd, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

SECTION 1. "Nuclear weapons material" is defined.

SECTION 2. This adds to the factors that the Minister must consider in carrying out his or her responsibilities under the Act the protection of the public from the possible threat to its health, social fabric and environment inherent in the production of nuclear weapons material.

SECTION 3. Self-explanatory.

SECTION 4. This requires the approval of the Minister and in the case of land in a local municipality, a zoning by-law properly passed by the Council of that municipality before a person is entitled to establish or convert a facility for or to the production of nuclear weapons material on any parcel of land in Ontario.

SECTION 5. Section 66 of the Act makes it an offence to contravene certain provisions, with maximum fines on conviction of \$20,000 for a first offence and \$10,000 for each day that a contravention continues after the first conviction. The comparable fines for a corporation are \$50,000 and \$25,000 respectively. Section 5 of the Bill makes this provision apply in respect of a person contravening section 4 of the Bill.

Bill 193

1987

An Act to amend the Planning Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Planning Act, 1983*, being chapter 1, is amended by adding thereto the following clause:

- (ga) “nuclear weapons material” means any item of weaponry, munitions, equipment or specialized supplies or services intended for use primarily in the production, transportation or testing of nuclear weapons or associated equipment or in the deployment of nuclear weapons.

2. Section 2 of the said Act is amended by striking out “and” at the end of clause (h), by adding “and” at the end of clause (i) and by adding thereto the following clause:

- (j) the protection of the public from the possible threat to its health, social fabric and environment inherent in the production of nuclear weapons material.

3. Section 16 of the said Act is amended by adding thereto the following subsection:

- (2) Every official plan shall be deemed to include a provision that no new facilities shall be established for and no facilities shall be converted to the production of nuclear weapons material.

Deemed
provision

4. The said Act is amended by adding thereto the following section:

- 45a.** Unless otherwise approved by the Minister and in the case of land in a local municipality also authorized by a by-law in force under section 34, no person shall establish or convert a facility for or to the production of nuclear weapons material on any parcel of land in Ontario.

Nuclear
weapons
material
production
restricted

5. Subsection 66 (1) of the said Act is amended by inserting after "45" in the first line "45a".

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Planning Amendment Act, 1987*.

Bill 194

An Act to provide for the Conversion of Technologies and Skills used in the Nuclear Weapons Industry to Civilian Uses

Mr. Johnston

1st Reading February 2nd, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to prepare for the termination of contracts for the production, repair, modification, storage or handling of materials used for nuclear weapons by encouraging the conversion of technologies and skills developed or used in those nuclear weapons contracts to projects that serve the civilian sector and by preparing for the employment of individuals whose jobs may be lost by the termination of those nuclear weapons contracts.

The Bill requires a company that enters into or has a nuclear weapons contract to establish a committee to assist in the preparation for conversion of the plant to civilian purposes and in the retraining of employees. The committees are to be composed of equal numbers of representatives of the company and of the employees and in some circumstances of non-voting representatives from the community.

The Bill provides for benefits to be paid to employees who lose their jobs as a result of the termination of a nuclear weapons contract.

A company that enters into or has a nuclear weapons contract is required to set up a fund to carry out the purposes of the Bill and to put in that fund annually 2.5 per cent of its gross revenue from that contract in that year. Companies and committees are also to seek additional sources of funding to carry out the purposes of the Bill.

The Bill gives the Minister discretion to assist committees and companies in preparing for and carrying out conversion plans and to assist them financially in carrying out their purposes.

The Bill makes it an offence to contravene any provision of the Act and the maximum penalty for a contravention is set at \$10,000 for persons other than corporations and at \$100,000 for corporations.

Bill 194**1987**

**An Act to provide for the Conversion
of Technologies and Skills used in the
Nuclear Weapons Industry to Civilian Uses**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“committee” means an economic conversion planning committee established under section 3;

“conversion plan” means a plan established under section 4;

“facility” means a facility where a nuclear weapons contractor produces, repairs, modifies, stores or handles nuclear weapons material in Ontario;

“fund” means a fund established under section 7;

“Minister” means the Minister of Industry, Trade and Technology;

“nuclear weapons contract” means a contract under which a corporation, agency or other establishment agrees to produce, repair, modify, store or handle nuclear weapons material in Ontario;

“nuclear weapons contractor” or “contractor” means a corporation, agency or other establishment that is engaged in or enters into a nuclear weapons contract;

“nuclear weapons material” means any item of weaponry, munitions, equipment or specialized supplies or services intended for use primarily in the production, transportation or testing of nuclear weapons or associated equipment or in the deployment of nuclear weapons.

Economic
conversion
program

2. A nuclear weapons contractor shall establish and maintain programs in accordance with this Act to prepare for the termination of its nuclear weapons contract by encouraging the conversion of technologies and skills developed or used in that contract to projects that serve the civilian sector and by preparing for the employment of individuals whose jobs may be lost by the termination of that contract.

Economic
conversion
planning
committee
established

3.—(1) A nuclear weapons contractor shall establish an economic conversion planning committee at each of its facilities forthwith upon entering into a nuclear weapons contract and shall cause it to be maintained thereafter.

Idem

(2) Where a nuclear weapons contract has been entered into before this Act comes into force, the contractor shall establish the economic conversion planning committee forthwith upon the coming into force of this Act.

Composition

(3) A committee shall be composed of not fewer than six members, with at least half of the members representing the employees at the facility and the remaining members representing the contractor.

Idem

(4) The members representing the employees at the facility shall be selected from time to time,

- (a) by the union bargaining units if the employees or some of them are represented by one or more union bargaining units; or
- (b) by representatives democratically elected by the employees if none of them are represented by a union bargaining unit.

Community
represent-
atives

(5) The Minister shall appoint as non-voting members of a committee not more than three persons who live in the municipality in which a facility is located and whose appointments are approved by the municipal council.

Office
space

(6) A nuclear weapons contractor shall provide free of charge to its committee whatever office space, furniture and office supplies that the committee reasonably needs to carry out its functions.

Committee
work

(7) A nuclear weapons contractor shall allow members of the committee to attend meetings and carry on their duties for the committee during the working day and any time spent for the committee shall be computed as working time for the purposes of computing remuneration and benefits.

4.—(1) It is the function of a committee and it has the power to, Functions of committee

- (a) develop and review a comprehensive plan,
 - (i) for converting the facility to productive activities that are acceptable to the contractor and not related to nuclear weapons purposes,
 - (ii) for providing the benefits required by this Act for those employees who lose their jobs as a result of the termination of the nuclear weapons contract, and
 - (iii) for assisting those employees who will not be employed by the contractor after the conversion in finding reasonable alternative employment;
- (b) oversee the implementation of the plan described in clause (a) when the nuclear weapons contract is terminated or completed;
- (c) ensure that the facility provides occupational retraining and re-employment counselling services, or ensure that such retraining and services are provided by an agency outside the facility, for all employees whose jobs are lost, whether temporarily or permanently, as a result of the termination or completion of a nuclear weapons contract;
- (d) assist the contractor in seeking outside sources of funding, as needed, to carry out the purposes of this Act; and
- (e) invest any money held in the fund in investments approved under the *Trustee Act*, and allocate that money in the manner provided for under this Act.

R.S.O. 1980,
c. 512

(2) In developing a conversion plan, the committee shall attempt to maximize the extent to which the personnel required for the efficient operation of the converted facility can be drawn from personnel employed by the facility before the conversion. Conversion plans

5.—(1) If a committee is not able to agree on a conversion plan, the committee shall make a report to the Minister containing the recommendations of the representatives of the employees and of the contractor and the opinions of any representatives of the community. Where no agreement

Minister
to decide

(2) If the Minister receives a report under subsection (1), he or she shall assist the committee, and where the Minister determines after such assistance that the committee is unable to agree on a conversion plan, the Minister shall assist the committee in whatever way he or she considers appropriate in formulating and carrying out a plan for providing the benefits required under section 6 and assisting employees in obtaining alternative employment.

Benefits
to
employees

R.S.C. 1970,
c. U-2

6. If an employee temporarily or permanently loses a job as a result of the termination of a nuclear weapons contract and the employee is eligible to receive benefits under the *Unemployment Insurance Act* (Canada), the contractor shall pay from the fund to that employee a benefit that when combined with the benefit under the *Unemployment Insurance Act* (Canada) is sufficient to ensure that the employee maintains an income at a level equal to 90 per cent of the employee's annual salary or wages immediately preceding the loss.

Money
for plan

7.—(1) A nuclear weapons contractor shall establish a fund to assist in carrying out a conversion plan and shall pay into the fund annually an amount equal to 2.5 per cent of the contractor's gross revenue from the contract for that year.

Idem

(2) A contractor, with the assistance of the committee, shall attempt to obtain whatever additional money for the fund it considers necessary to carry out the conversion plan.

Management
of fund

(3) The committee shall manage the fund.

Allocation
of money

(4) If there is not enough money in a fund to properly carry out a conversion plan, the committee shall apply what money there is in the fund first for providing the benefits to employees required under section 6, second for assisting employees who lose their jobs in retraining and in obtaining alternative employment, and third in financing any retooling of the facility required to carry out the conversion plan.

Idem

(5) If, after the assistance of the Minister, a committee is unable to agree on a conversion plan, it shall apply the money in the fund first for providing the benefits to employees required under section 6 and second for assisting employees who lose their jobs in retraining and in obtaining alternative employment.

Minister
to assist

8. The Minister may offer whatever assistance he or she considers appropriate to a committee or a contractor, including, without limiting the generality of the foregoing,

- (a) developing and coordinating information concerning,
 - (i) critical issues that should be addressed in formulating a conversion plan,
 - (ii) organizations and individual consultants who might be of assistance to committees in formulating a conversion plan,
 - (iii) the issues involved in the retraining of personnel,
 - (iv) the requirements of programs for retraining of various classes of personnel, and
 - (v) programs that are available for the retraining of various classes of personnel;
- (b) providing financial assistance by way of a grant or a loan to supplement a fund;
- (c) assisting a committee and a contractor in carrying out the conversion plan.

9.—(1) A nuclear weapons contractor shall cause its committee to report to the Minister concerning the development and implementation of its plan within one year after the committee is established and yearly thereafter. Report to Minister

(2) If, after receiving a report, the Minister is not satisfied with the progress of a committee, the Minister shall assist the committee in whatever way he or she considers appropriate in carrying out its functions. Minister to help

10.—(1) A nuclear weapons contractor shall provide to the Minister upon entering into a nuclear weapons contract and annually thereafter such information concerning the nuclear weapons contract as the Minister may require. Report on contract

(2) Where a nuclear weapons contract has been entered into before this Act comes into force, the contractor shall provide the information required under subsection (1) forthwith after the coming into force of this Act and annually thereafter. Transition

11. No action shall be instituted against a member of a committee for an act done in good faith in the execution or intended execution of the person's duty or for an alleged Protection from liability

neglect or default in the execution in good faith of the person's duty.

Offence

12.—(1) A person who contravenes a provision of this Act and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Idem

(2) The maximum fine that may be imposed on a corporation is \$100,000 and not as provided in subsection (1).

Commence-
ment

13. This Act comes into force on the day it receives Royal Assent.

Short title

14. The short title of this Act is the *Nuclear Weapons Economic Conversion Act, 1987*.

Bill 195

**An Act permitting
Trustees
and other Persons
to dispose of
South African Investments**

The Hon. I. Scott
Attorney General

1st Reading February 5th, 1987
2nd Reading
3rd Reading
Royal Assent

Projet de loi 195

**Loi permettant
aux fiduciaires
et à d'autres personnes
d'aliéner
les placements sud-africains**

L'honorable I. Scott
procureur général

1^{re} lecture 5 février 1987
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The purpose of the Bill is to authorize trustees of trusts and persons responsible for managing and investing the assets of registered charities and pension funds to dispose of South African investments without committing a breach of duty even if the value of the property they manage decreases as a result. (Under the present law, these persons have a duty to invest the property they manage in reasonable and proper investments without consideration of moral issues.)

The Bill provides that a trustee of a trust or person responsible for managing and investing the assets of a registered charity or pension fund who disposes of a South African investment, acting in a reasonably prudent manner, does not commit a breach of duty even if as a result the value of the property decreases.

However, trustees and persons responsible for pension funds are required, before they dispose of a South African investment, to obtain the consent of a majority of the identifiable beneficiaries (if there are no more than 100 identifiable beneficiaries) or to satisfy themselves that a majority of the identifiable beneficiaries would consent (if there are more than 100).

“South African investment” is defined in subsection 1 (1).

NOTES EXPLICATIVES

Le projet de loi permettrait aux fiduciaires de fiducies et aux personnes chargées de la gestion et du placement de biens appartenant aux organismes de charité enregistrés et aux caisses de retraite d'aliéner des placements sud-africains sans manquer à leur devoir, même si la valeur des biens qu'ils gèrent diminue en raison de cette aliénation. (La loi existante impose à ces personnes le devoir d'investir les biens qu'ils gèrent dans des placements raisonnables et appropriés, sans égard aux questions d'ordre moral.)

Le projet de loi prévoit que le fiduciaire d'une fiducie ou la personne responsable de la gestion et du placement des biens d'un organisme de charité enregistré ou d'une caisse de retraite qui aliène un placement sud-africain en faisant preuve d'une prudence normale ne manque pas à son devoir même si la valeur des biens diminue en raison de cette aliénation.

Avant d'aliéner un placement sud-africain, il incombe cependant aux fiduciaires et aux personnes responsables des caisses de retraite d'obtenir le consentement d'une majorité des bénéficiaires identifiables (si leur nombre ne dépasse pas 100) ou de s'assurer qu'une majorité d'entre eux donneraient leur consentement (si leur nombre est supérieur à 100).

L'expression «placement sud-africain» est définie au paragraphe 1 (1).

Bill 195

1987

**An Act permitting
Trustees
and other Persons
to dispose of
South African Investments**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1.—(1) In this Act,

“organisme
de charité
enregistré”
R.S.C. 1952,
c. 148

“registered charity” means a registered charity within the meaning of paragraph 110 (8) (c) of the *Income Tax Act* (Canada);

“Afrique du
Sud”

“South Africa” means the Republic of South Africa;

“placement
sud-africain”

“South African investment” means,

- (a) an investment in shares of a corporation that is incorporated under the laws of South Africa or carries on business in South Africa,
- (b) an investment in shares of a corporation that has a substantial interest in a corporation that is incorporated under the laws of South Africa or carries on business in South Africa,
- (c) an investment in shares of a corporation a substantial interest in which is held by one or more of the following,
 - (i) corporations that are incorporated under the laws of South Africa,
 - (ii) corporations that carry on business in South Africa,

Projet de loi 195

1987

**Loi permettant
aux fiduciaires
et à d'autres personnes
d'aliéner
les placements sud-africains**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions

«action assortie du droit de vote» Action d'une catégorie des actions d'une compagnie assortie d'un droit de vote absolu ou assortie d'un droit de vote en raison de la survenance d'une éventualité qui s'est produite et se poursuit. «voting share»

«Afrique du Sud» La République d'Afrique du Sud. «South Africa»

«fiduciaire» Fiduciaire d'une fiducie. S'entend en outre d'une personne qui est responsable de la gestion et du placement de biens d'un organisme de charité enregistré ou d'une caisse de retraite. «trustee»

«organisme de charité enregistré» Organisme de charité enregistré au sens de l'alinéa 110 (8) c) de la *Loi de l'impôt sur le revenu* (Canada). «registered charity»
S.R.C. 1952, chap. 148

«placement sud-africain» Placement qui, selon le cas : «South African investment»

- a) est effectué dans des actions d'une compagnie qui est constituée en vertu des lois de l'Afrique du Sud ou qui fait affaire en Afrique du Sud;
- b) est effectué dans des actions d'une compagnie qui a une participation importante dans une compagnie qui est constituée en vertu des lois de l'Afrique du Sud ou qui fait affaire en Afrique du Sud;

- (iii) persons who are citizens of South Africa or who ordinarily reside there,
- (d) an investment in shares of a corporation a substantial interest in which is held by a corporation that also holds a substantial interest in another corporation that is incorporated under the laws of South Africa or that carries on business in South Africa,
- (e) an investment in bonds, debentures or other evidences of indebtedness issued or guaranteed by the Government of South Africa or by a corporation whose shares are a South African investment under clause (a), (b), (c) or (d),
- (f) any other investment that has a substantial connection with South Africa;

"fiduciaire" "trustee" means a trustee of a trust and includes a person who is responsible for investing and managing the assets of a registered charity or a pension fund;

"action assortie du droit de vote" "voting share" means a share of a class of shares of a corporation that carries voting rights under all circumstances or under some circumstances that have occurred and are continuing.

Substantial interest (2) A person shall be deemed to have a substantial interest in a corporation if the person beneficially owns or controls 10 per cent or more of the issued and outstanding voting shares in the corporation.

Application of Act **2.** This Act applies to all trusts, registered charities and pension funds.

Trustee not liable R.S.O. 1980, c. 512 **3.** Despite the *Trustee Act* or any other law, a trustee who acts in accordance with this Act and in a reasonably prudent manner does not commit a breach of statutory or other legal duty by,

- (a) disposing of a South African investment even if the value of the property for which the trustee is responsible decreases or fails to increase sufficiently as a result; or

- c) est effectué dans des actions d'une compagnie dans laquelle une ou plusieurs des personnes suivantes ont une participation importante :
 - (i) des compagnies qui sont constituées en vertu des lois de l'Afrique du Sud,
 - (ii) des compagnies qui font affaire en Afrique du Sud,
 - (iii) des citoyens de l'Afrique du Sud ou des personnes qui ont leur résidence ordinaire en Afrique du Sud;
- d) est effectué dans des actions d'une compagnie dans laquelle une participation importante appartient à une compagnie qui a également une participation importante dans une autre compagnie qui est constituée en vertu des lois de l'Afrique du Sud ou qui fait affaire en Afrique du Sud;
- e) est effectué dans des obligations, débentures ou autres titres de créance émis ou garantis par le gouvernement de l'Afrique du Sud ou par une compagnie dont les actions constituent un placement sud-africain aux termes des alinéas a), b), c) ou d);
- f) a, par ailleurs, des liens étroits avec l'Afrique du Sud.

(2) Une personne est réputée avoir une participation importante dans une compagnie si elle est propriétaire bénéficiaire ou qu'elle a le contrôle de 10 pour cent ou plus des actions de la compagnie émises, en circulation et assorties du droit de vote.

Participation importante

2 La présente loi s'applique aux fiducies, aux organismes de charité enregistrés et aux caisses de retraite.

Champ d'application

3 Malgré la *Loi sur les fiduciaires* et toute autre loi, le fiduciaire qui agit conformément à la présente loi et fait preuve d'une prudence normale ne manque pas au devoir que lui impose la loi :

Absence de responsabilité
L.R.O. 1980,
chap. 512

- a) s'il aliène un placement sud-africain, même s'il en résulte une diminution ou une augmentation insuffisante de la valeur des biens dont il a la responsabilité;

(b) refusing to acquire a South African investment.

- Definition** **4.**—(1) In this section, “identifiable beneficiary” means an existing person who can be clearly identified as a beneficiary of a trust or a pension fund and does not include a person who has been declared mentally incompetent.
- Consent of beneficiaries required** (2) If there are no more than 100 identifiable beneficiaries of a trust or a pension fund, section 3 applies only if a majority of them consent to the intended transaction and their combined beneficial interest in the trust or pension fund comprises more than 50 per cent of its assets.
- Idem** (3) If there are more than 100 identifiable beneficiaries of a trust or pension fund, section 3 applies only if the trustee has made inquiries and has reasonable grounds to believe that a majority of them would consent to the intended transaction and that their combined beneficial interest in the trust or pension fund comprises more than 50 per cent of its assets.
- Consent of minor** (4) A person who has lawful custody of an identifiable beneficiary who is less than eighteen years of age may give or refuse consent on the beneficiary’s behalf.
- Commencement** **5.** This Act comes into force on the day it receives Royal Assent.
- Short title** **6.** The short title of this Act is the *South African Trust Investments Act, 1987*.

- b) s'il refuse d'investir ces biens dans un placement sud-africain.

4 (1) Dans le présent article, «bénéficiaire identifiable» Définition
s'entend d'une personne existante qui peut être identifiée avec exactitude en tant que bénéficiaire d'une fiducie ou d'une caisse de retraite. Est toutefois exclue la personne qui fait l'objet d'une déclaration d'incapacité mentale.

(2) Lorsqu'une fiducie ou une caisse de retraite n'a pas plus de 100 bénéficiaires identifiables, l'article 3 ne s'applique que si une majorité d'entre eux dont l'intérêt total dans la fiducie ou la caisse dépasse 50 pour cent des biens de la fiducie ou de la caisse donnent leur consentement à l'opération projetée. Consentement des bénéficiaires

(3) Lorsqu'une fiducie ou une caisse de retraite a plus de 100 bénéficiaires identifiables, l'article 3 ne s'applique que si le fiduciaire, s'étant renseigné, a des motifs raisonnables de croire qu'une majorité d'entre eux donneraient leur consentement à l'opération projetée et que leur intérêt total dans la fiducie ou la caisse dépasse 50 pour cent des biens de la fiducie ou de la caisse. Idem

(4) Une personne qui a la garde légitime d'un bénéficiaire identifiable âgé de moins de dix-huit ans peut donner ou refuser le consentement au nom du bénéficiaire. Consentement du mineur

5 La présente loi entre en vigueur le jour où elle reçoit la sanction royale. Entrée en vigueur

6 Le titre abrégé de la présente loi est *Loi de 1987 sur les placements sud-africains détenus en fiducie*. Titre abrégé

Bill 196

An Act to amend the Teachers' Superannuation Act, 1983

Mr. Davis

<i>1st Reading</i>	February 5th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

The purpose of the Bill is to broaden the number of persons who have their retirement allowance computed on the basis of their five best years. In 1983, the five year criteria replaced the seven year criteria as the basis for calculating the allowance. Under the Act, teachers who retired on or after the 31st day of May, 1982 benefitted from this change. The proposed amendment would eliminate that restriction and make the five year criteria applicable to all retired teachers.

Bill 196

1987

**An Act to amend the
Teachers' Superannuation Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 76 (2) of the *Teachers' Superannuation Act, 1983*, being chapter 84, is repealed and the following substituted therefor:

(2) Instalments payable on or after the 1st day of September, 1984 for allowances payable to persons who ceased to be employed in education before the 1st day of September, 1984 shall be paid in amounts equal to the amounts that would have been paid if this Act had been in force. Transitional

2. This Act shall be deemed to have come into force on the 1st day of September, 1984. Commence-
ment

3. The short title of this Act is the *Teachers' Superannuation Amendment Act, 1987*. Short title

Bill 197

An Act to amend the Architects Act, 1984

The Hon. I. Scott

Attorney General

1st Reading February 9th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTIONS 1 to 5. The amendments will allow the Association to establish its own indemnity plan to provide an indemnity against liability that may be incurred in the practice of architecture by members of the Association, holders of certificates of practice and holders of temporary licences. The Association will be able to require members and holders to participate in an indemnity plan and to cancel a licence, certificate of practice or temporary licence of a member or holder who does not pay premiums, levies or deductibles in respect of insurance or an indemnity plan.

SECTION 6. The re-enactment of section 51 adds members of the Council and members of the Joint Practice Board to the list of persons entitled to immunity from civil proceedings in respect of their duties and the exercise of their powers under this Act or the *Professional Engineers Act, 1984*. The re-enactment also adds these persons to the list of persons who are entitled to be indemnified in respect of actions brought against a person referred to in subsection 51 (2).

Bill 197**1987****An Act to amend the Architects Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Architects Act, 1984*, being chapter 12, is amended by adding thereto the following clause:

(oa) "indemnity plan" means an indemnity plan established under subsection 40 (2).

2. Subsection 7 (1) of the said Act is amended by adding thereto the following paragraphs:

26a. requiring members, holders of certificates of practice or holders of temporary licences, or all of them, through participation in an indemnity plan, to obtain and maintain an indemnity against liability that may be incurred in the practice of architecture and prescribing the minimum amounts of such indemnity;

26b. exempting, subject to such terms and conditions as may be set out in the regulations, any class of members, holders of certificates of practice or holders of temporary licences from the requirement to participate in an indemnity plan and classifying members, holders of certificates of practice or holders of temporary licences for the purposes of any such exemption.

3. Subsection 8 (1) of the said Act is amended by adding thereto the following paragraph:

24a. requiring the payment and remittance of premiums and deductibles for members, holders of certificates of practice and holders of temporary licences and prescribing levies that shall be paid by members of the Association, holders of certificates of practice

and holders of temporary licences in respect of an indemnity provided under an indemnity plan.

4. Section 28 of the said Act is amended by adding thereto the following subsections:

Cancellation
for failure to
pay
premiums,
etc.

(3) The Registrar may cancel a licence, certificate of practice or temporary licence for non-payment of any premium, levy or deductible in connection with insurance against professional liability or in respect of participation in an indemnity plan, or, where the holder of the licence, certificate of practice or temporary licence has not applied to participate in the indemnity plan or ceases to meet the terms and conditions of exemption from participation in an indemnity plan, after giving the member or holder at least ten days notice of the default and intention to cancel, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of the member's or holder's professional conduct while a member or holder.

Reinstatement

(4) A person who was a member or a holder of a certificate of practice or temporary licence whose licence, certificate of practice or temporary licence was cancelled by the Registrar under subsection (3) is entitled to have the licence, certificate of practice or temporary licence reinstated upon payment of all unpaid premiums, levies and deductibles and upon satisfying any other requirements prescribed by the regulations.

5. Section 40 of the said Act is repealed and the following substituted therefor:

Professional
liability
insurance,
indemnity
plan

40.—(1) No member of the Association, holder of a certificate of practice or holder of a temporary licence shall engage in the practice of architecture,

- (a) unless insured against professional liability in accordance with the regulations or in accordance with arrangements made under clause (2) (a);
- (b) unless, where required by the regulations, the member or holder participates in an indemnity plan; or
- (c) unless exempted by the regulations from the requirements of clauses (a) and (b).

Idem

(2) The Association,

- (a) may make arrangements respecting insurance against professional liability for members of the

Association, holders of certificates of practice and holders of temporary licences;

- (b) may establish, maintain and administer an indemnity plan to provide an indemnity against professional liability for members of the Association, holders of certificates of practice and holders of temporary licences.

(3) The Association may set premiums and establish levies in respect of indemnity plans and arrangements under subsection (2) and prescribe terms and conditions in relation to any such indemnity plan or arrangement. Premiums

(4) The *Insurance Act* does not apply in respect of an indemnity plan. Non-application of R.S.O. 1980, c. 218

6. Section 51 of the said Act is repealed and the following substituted therefor:

51.—(1) No action or other proceeding for damages shall be instituted against the Association, a member of the Council, a member of the Association, a member of a committee of the Association, the chairman or any other member of the Joint Practice Board or an officer, employee, agent or appointee of the Association for any act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act or the *Professional Engineers Act, 1984*, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power. Immunity 1984, c. 13

(2) Every person who is a member of the Council, a member of the Association, a member of a committee of the Association, the chairman or other member of the Joint Practice Board or an officer, employee, agent or appointee of the Association, and the person's heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the Council, from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against, Indemnification

- (a) all costs, charges and expenses whatsoever that the person sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against the person, for or in respect of any act, deed, matter or thing whatsoever, made, done or committed by the person, in the performance or intended performance of a duty or in the exercise or in the intended exercise of a power under this Act

1984, c. 13

or the *Professional Engineers Act, 1984*, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power or otherwise in or about the execution of such duties; and

- (b) all other costs, charges and expenses that the person sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by the person's own wilful neglect or default.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *Architects Amendment Act, 1987*.

Bill 197

*(Chapter 13
Statutes of Ontario, 1987)*

An Act to amend the Architects Act, 1984

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	February 9th, 1987
<i>2nd Reading</i>	February 11th, 1987
<i>3rd Reading</i>	February 12th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 197**1987****An Act to amend the Architects Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Architects Act, 1984*, being chapter 12, is amended by adding thereto the following clause:

(oa) "indemnity plan" means an indemnity plan established under subsection 40 (2).

2. Subsection 7 (1) of the said Act is amended by adding thereto the following paragraphs:

26a. requiring members, holders of certificates of practice or holders of temporary licences, or all of them, through participation in an indemnity plan, to obtain and maintain an indemnity against liability that may be incurred in the practice of architecture and prescribing the minimum amounts of such indemnity;

26b. exempting, subject to such terms and conditions as may be set out in the regulations, any class of members, holders of certificates of practice or holders of temporary licences from the requirement to participate in an indemnity plan and classifying members, holders of certificates of practice or holders of temporary licences for the purposes of any such exemption.

3. Subsection 8 (1) of the said Act is amended by adding thereto the following paragraph:

24a. requiring the payment and remittance of premiums and deductibles for members, holders of certificates of practice and holders of temporary licences and prescribing levies that shall be paid by members of the Association, holders of certificates of practice

and holders of temporary licences in respect of an indemnity provided under an indemnity plan.

4. Section 28 of the said Act is amended by adding thereto the following subsections:

Cancellation
for failure to
pay
premiums,
etc.

(3) The Registrar may cancel a licence, certificate of practice or temporary licence for non-payment of any premium, levy or deductible in connection with insurance against professional liability or in respect of participation in an indemnity plan, or, where the holder of the licence, certificate of practice or temporary licence has not applied to participate in the indemnity plan or ceases to meet the terms and conditions of exemption from participation in an indemnity plan, after giving the member or holder at least ten days notice of the default and intention to cancel, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of the member's or holder's professional conduct while a member or holder.

Reinstatement

(4) A person who was a member or a holder of a certificate of practice or temporary licence whose licence, certificate of practice or temporary licence was cancelled by the Registrar under subsection (3) is entitled to have the licence, certificate of practice or temporary licence reinstated upon payment of all unpaid premiums, levies and deductibles and upon satisfying any other requirements prescribed by the regulations.

5. Section 40 of the said Act is repealed and the following substituted therefor:

Professional
liability
insurance,
indemnity
plan

40.—(1) No member of the Association, holder of a certificate of practice or holder of a temporary licence shall engage in the practice of architecture,

- (a) unless insured against professional liability in accordance with the regulations or in accordance with arrangements made under clause (2) (a);
- (b) unless, where required by the regulations, the member or holder participates in an indemnity plan; or
- (c) unless exempted by the regulations from the requirements of clauses (a) and (b).

Idem

(2) The Association,

- (a) may make arrangements respecting insurance against professional liability for members of the

Association, holders of certificates of practice and holders of temporary licences;

- (b) may establish, maintain and administer an indemnity plan to provide an indemnity against professional liability for members of the Association, holders of certificates of practice and holders of temporary licences.

(3) The Association may set premiums and establish levies in respect of indemnity plans and arrangements under subsection (2) and prescribe terms and conditions in relation to any such indemnity plan or arrangement. Premiums

(4) The *Insurance Act* does not apply in respect of an indemnity plan. Non-application of
R.S.O. 1980,
c. 218

6. Section 51 of the said Act is repealed and the following substituted therefor:

51.—(1) No action or other proceeding for damages shall be instituted against the Association, a member of the Council, a member of the Association, a member of a committee of the Association, the chairman or any other member of the Joint Practice Board or an officer, employee, agent or appointee of the Association for any act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act or the *Professional Engineers Act, 1984*, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power. Immunity

1984, c. 13

(2) Every person who is a member of the Council, a member of the Association, a member of a committee of the Association, the chairman or other member of the Joint Practice Board or an officer, employee, agent or appointee of the Association, and the person's heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the Council, from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against, Indemnification

- (a) all costs, charges and expenses whatsoever that the person sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against the person, for or in respect of any act, deed, matter or thing whatsoever, made, done or committed by the person, in the performance or intended performance of a duty or in the exercise or in the intended exercise of a power under this Act

1984, c. 13

or the *Professional Engineers Act, 1984*, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power or otherwise in or about the execution of such duties; and

- (b) all other costs, charges and expenses that the person sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by the person's own wilful neglect or default.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *Architects Amendment Act, 1987*.

Bill 198

An Act to amend the Residential Rent Regulation Act, 1986

Mr. Reville

1st Reading February 9th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill provides that a tenant in a post-1975 building who has been given a notice of rent increase to take effect on or after January 1st, 1987, that is greater than the guideline amount for 1987 is liable to pay an increase only up to the amount of the guideline until such time as an order setting the maximum rent made on the application of the landlord under section 74 takes effect.

Bill 198

1987

**An Act to amend the
Residential Rent Regulation Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 73 (2) of the *Residential Rent Regulation Act, 1986*, being chapter 63, is amended by adding at the commencement thereof “Subject to subsection (2a)”.

(2) Section 73 of the said Act is amended by adding thereto the following subsection:

(2a) Where the rent increase set out in the notice referred to in subsection (2) is to take effect on or after the 1st day of January, 1987, the rent increase that may be charged and collected by the landlord, until such time as an order setting the maximum rent that may be charged for the rental unit takes effect, is the increase permitted by clause 71 (1) (b).

Where
increase
takes effect
on or after
January 1st,
1987

2. This Act shall be deemed to have come into force on the 1st day of January, 1987.

Commence-
ment

3. The short title of this Act is the *Residential Rent Regulation Amendment Act, 1987*.

Short title

Bill 199

An Act to amend the Equality Rights Statute Law Amendment Act, 1986

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	February 9th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

Subsection 33 (53) of the Act is an amendment to the *Mental Health Act* limiting the circumstances under which a physician who is unable to obtain consent to treatment of a patient in a psychiatric facility may apply to a review board for an order for treatment of that patient. Bill 190, introduced on January 28th, 1987, would repeal subsection 33 (53) and replace it with a number of provisions explained in that Bill. The purpose of this Bill is to delay the commencement of subsection 33 (53) from April 1st, 1987 until June 1st, 1987 so that Bill 190 can be considered before subsection 33 (53) comes into effect.

Bill 199**1987**

**An Act to amend the
Equality Rights Statute Law Amendment Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 70 (4) of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64, is amended by striking out "April" in the second line and inserting in lieu thereof "June".

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Equality Rights Statute Law Amendment Amendment Act, 1987*. Short title

Bill 199

*(Chapter 14
Statutes of Ontario, 1987)*

An Act to amend the Equality Rights Statute Law Amendment Act, 1986

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	February 9th, 1987
<i>2nd Reading</i>	February 10th, 1987
<i>3rd Reading</i>	February 11th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 199**1987**

**An Act to amend the
Equality Rights Statute Law Amendment Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 70 (4) of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64, is amended by striking out "April" in the second line and inserting in lieu thereof "June".

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Equality Rights Statute Law Amendment Amendment Act, 1987*. Short title

Bill 200

An Act to amend the Gasoline Handling Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations

1st Reading February 10th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The main purpose of the Bill is to provide a means to ascertain the number and location of underground tanks located on private outlets that are being used to store gasoline or associated products. In connection with this some safety requirements are being implemented.

The use of the terms "private outlet" and "retail outlet" are being substituted for "consumer outlet" and "service station" respectively.

Bill 200

1987

An Act to amend the Gasoline Handling Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (c) of the *Gasoline Handling Act*, being chapter 185 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Section 1 of the said Act is amended by adding thereto the following clauses:

(la) “private outlet” means any premises at which gasoline or an associated product of the operator of the outlet is put into the fuel tanks of motor vehicles used by the operator of the outlet or into portable containers used by the operator of the outlet;

.

(ma) “retail outlet” means any premises at which gasoline or an associated product is sold and is put into the fuel tanks of motor vehicles or into portable containers.

(3) Clause 1 (n) of the said Act is repealed.

2. Clause 2 (c) of the said Act is amended by striking out “service station, consumer outlet” in the first line and inserting in lieu thereof “private outlet, retail outlet”.

3. Section 3 of the said Act is amended by striking out “service station, consumer outlet” in the first line and inserting in lieu thereof “private outlet, retail outlet”.

4.—(1) Clause 6 (1) (a) of the said Act is amended by striking out “service station” and inserting in lieu thereof “retail outlet”.

(2) Subsection 6 (2) of the said Act is amended by striking out "consumer outlet" in the second line and inserting in lieu thereof "private outlet" and by striking out "service station" in the second and third lines and inserting in lieu thereof "retail outlet".

5. The said Act is amended by adding thereto the following section:

Application
at private
outlets only

6a.—(1) The application of this section is limited to underground tanks located at private outlets or at sites that were private outlets.

Declaration

(2) Any owner of an underground tank that is being used for the storage of gasoline or an associated product or, if the owner is not the operator of the private outlet, the operator of the outlet using the tank may file with the Director a declaration relating to the tank in a form prescribed by the regulations.

Endorsed
copy

(3) The Director, upon receiving a declaration under subsection (2), shall forward, to the person sending in the declaration, an endorsed copy thereof.

Idem

(4) No person, after the 31st day of December, 1987 or such later date as may be prescribed by regulation, shall,

(a) use an underground tank or cause an underground tank to be used unless a declaration relating to the tank has been endorsed by the Director; or

(b) put gasoline or an associated product into an underground tank unless a declaration relating to the tank has been endorsed by the Director.

Supplying
gasoline to
underground
tanks

(5) Every person who supplied gasoline or an associated product to an underground tank at any time in 1986 shall, by the 31st day of March, 1987 or such later date as may be prescribed by regulation, provide the Director with the address of the outlet and the name of the person who purchased the product.

Idem

(6) Every person who supplied gasoline or an associated product to an underground tank between the 1st day of January, 1987 and the 30th day of September, 1987 shall, by the 31st day of October, 1987 or such later date as may be prescribed by regulation, provide the Director with the address of the outlet and the name of the person who purchased the product.

(7) Subsection (6) does not apply to a person who has supplied the address of the outlet and name of the purchaser under subsection (5). Idem

(8) Upon the Director receiving satisfactory evidence that an underground tank and associated piping are protected from external corrosion in accordance with the regulations, the Director shall issue a written acknowledgment thereof. Acknowledgment of tank protection

(9) No person shall put gasoline or an associated product in an underground tank after the 1st day of January, 1991 unless an acknowledgment under subsection (8) has been issued in respect of the tank. Requirement for acknowledgment

(10) Every owner of an underground tank that has been used for the storage of gasoline or an associated product but is not in use when this section comes into force or ceases to be used before a declaration is filed under subsection (2) shall file with the Director a declaration relating to the tank in a form prescribed by the Director within six months after this section comes into force or the tank ceases to be used, whichever is the later. Out of use tanks

6. This Act comes into force on the day it receives Royal Assent. Commencement

7. The short title of this Act is the *Gasoline Handling Amendment Act, 1987*. Short title



Bill 201

An Act to amend the Children's Law Reform Act

Mr. O'Connor

1st Reading February 10th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Act provides a new mechanism for the resolution of disputes concerning access to children.

Where an access order already exists, the court may appoint a mediator. On receiving the mediator's report, the court may vary the order in accordance with the terms agreed to by the parties or the terms recommended by the mediator. The court may draw an adverse inference from a party's unwillingness to co-operate in the mediation with respect to his or her ability to act in the best interests of the child.

The court may also order that access to a child be arranged through a supervised access centre established by the Attorney General.

The Bill also adds to the factors to be considered by a court in determining the best interests of the child and the importance of maintaining emotional ties between the child and his or her grandparents.

Bill 201

1987

An Act to amend the Children's Law Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 21 of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

21. A parent or grandparent of a child or any other person may apply to a court for an order respecting custody of or access to the child or determining any aspect of the incidents of custody of or access to the child.

Application
for order

2. Subsection 24 (2) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by adding thereto the following clause:

(aa) the importance of maintaining emotional ties between the child and his or her grandparents.

3. Section 35 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by adding thereto the following subsection:

(3) The Attorney General may establish one or more supervised access centres.

Supervised
access centres

(4) The purpose of a supervised access centre shall be,

Idem

- (a) to provide a neutral place for visits with a child, with or without supervision; and
- (b) to provide a neutral place where a child may be picked up and dropped off by a person exercising a right of access.

4. The said Act is amended by adding thereto the following sections:

Application
for mediation
of
access
disputes

37a.—(1) Subject to subsection (2), where a court is satisfied upon application by a person in whose favour an order has been made for access to a child that there are reasonable and probable grounds for believing that a person in whose favour an order has been made for custody of the child is unlawfully withholding the child from the applicant, the court shall by order appoint a person to mediate the access dispute.

Exceptions

(2) The court shall not make an order under subsection (1) if it is satisfied that,

- (a) any party lacks the ability to participate effectively in the mediation, whether or not the party is willing to participate; or
- (b) the application is not made in good faith.

Purpose of
mediation

(3) The purpose of the mediation shall be to reduce acrimony that may exist between the parties and to obtain an agreement that will assure the child's close and continued relationship with each of the parties.

Agreement
by
parties

(4) The court shall, if possible, appoint a person agreed upon by the parties, but if the parties do not agree the court shall choose and appoint the person.

Qualifica-
tions of
mediator

(5) A person appointed under subsection (1) or (7) shall be skilled in the practice of family mediation.

Consent to
act

(6) The court shall not appoint a person under subsection (1) or (7) unless the person has consented to act as mediator and to file a report with the court within the period of time specified by the court.

Replacement
of mediator

(7) If the court is satisfied upon application made in good faith that,

- (a) there are reasonable grounds for believing that, despite the willingness of the parties to co-operate in the mediation, the mediator is unlikely to obtain an agreement between them; or
- (b) a party has a reasonable apprehension of bias on the part of the mediator,

the court may by order appoint another person to replace the person appointed under subsection (1).

Duties of
mediator

(8) It is the duty of a mediator,

- (a) to confer with the parties and endeavour to obtain an agreement in respect of the access dispute;
- (b) to terminate the mediation if, in the mediator's opinion, its continuation is likely to result in physical or emotional harm to a party;
- (c) to terminate the mediation if, in the mediator's opinion, it is unlikely that its continuation will lead to an agreement between the parties;
- (d) to advise the parties if, in the mediator's opinion, an agreement reached between them is unreasonable or not in the best interests of the child; and
- (e) to promote the best interests of the child.

(9) The mediator may confer with the child who is the subject of the access order, with other members of the child's family and with persons involved in the care and upbringing of the child.

Consultation
with child,
etc.

(10) If, in the mediator's opinion, a party is likely to suffer physical or emotional harm as a result of meeting with another party to the mediation, the mediator may conduct the mediation by meeting with the parties separately.

Consultation
without the
other party

(11) If a party does not co-operate in the mediation, the court may require the party to pay all or a part of the mediator's fees and expenses.

Fees and
expenses

37b.—(1) The mediator shall file a full report on the mediation, including anything that the mediator considers relevant to the access dispute and a statement showing the amount of time the mediator spent conferring with the parties, the child and any other person.

Mediator's
report

(2) The mediator shall include in the report,

Idem

- (a) a statement of the terms that the parties have agreed to with respect to the custody of or access to the child, signed by the parties; or
- (b) a statement that the parties did not reach agreement.

(3) If, in the opinion of the mediator, the parties failed to reach agreement as a result of the unwillingness of either of them to co-operate in the mediation, the mediator shall include a statement to that effect in the report.

Non-
co-operation

Recommendations

(4) The mediator may recommend in the report,

- (a) that the terms of the order in respect of the custody of or access to the child be varied in accordance with the terms agreed to by the parties or the terms, if any, recommended by the mediator;
- (b) that the child or any person with a right to custody of or access to the child obtain individual or family counselling;
- (c) that any person with a right to custody of or access to the child participate in a parental education program;
- (d) that access to the child be carried out under supervision or at a supervised access centre established under subsection 35 (3); or
- (e) any other measure likely to resolve the access dispute.

Filing of report

(5) The mediator shall file the report with the clerk or registrar of the court.

Copies of report

(6) The clerk or registrar of the court shall give a copy of the report to each of the parties, to their counsel and to counsel, if any, representing the child.

Powers of court

37c.—(1) On motion, the court may,

- (a) by order vary an order in respect of custody or access in accordance with the terms agreed to by the parties or the terms recommended by the mediator;
- (b) by order require a party to implement any of the mediator's recommendations; and
- (c) make any other order the court considers necessary and proper in the circumstances.

Effect of party's non-co-operation

(2) If a party was unwilling to co-operate in the mediation, the court may draw an adverse inference in respect of the party's ability and willingness to act in the best interests of the child.

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

6. The short title of this Act is the *Children's Law Reform Amendment Act, 1987*. Short title

Bill 202

An Act to amend the Drugless Practitioners Act

Mr. Shymko

1st Reading February 10th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to ensure that naturopaths are covered by the *Drugless Practitioners Act*.

SECTION 1. Clause 1 (b) now reads:

- (b) "*drugless practitioner*" means a person who practises or advertises or holds himself out in any way as practising the treatment of any ailment, disease, defect or disability of the human body by manipulation, adjustment, manual or electrotherapy or by any similar method.

The amendment makes it clear that naturopaths are included in the definition.

SECTION 2. Section 4 now reads:

4. *The Lieutenant Governor in Council may make regulations classifying persons admitted to practise under this Act and for prescribing the systems of treatment that may be followed by drugless practitioners of different classes.*

The amendment makes it clear in the statute that naturopaths are a class of drugless practitioners under the Act.

Bill 202

1987

An Act to amend the Drugless Practitioners Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (b) of the *Drugless Practitioners Act*, being chapter 127 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “and includes a naturopath”.

2. Section 4 of the said Act is repealed and the following substituted therefor:

4.—(1) Naturopaths are a class of persons admitted to practise under this Act. Naturopaths

(2) The Lieutenant Governor in Council may make regulations classifying persons in addition to naturopaths who may be admitted to practice under this Act. Regulations

(3) The Lieutenant Governor in Council may make regulations for prescribing the systems of treatment that may be followed by drugless practitioners of different classes. Idem

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Drugless Practitioners Amendment Act, 1987*. Short title

Bill 203

An Act to amend the Public Lands Act

The Hon. V. Kerrio
Minister of Natural Resources

<i>1st Reading</i>	February 11th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

SECTION 1. The section is rewritten to provide for the appointment of officers by the Minister rather than by the Lieutenant Governor in Council and to authorize the officers to enter upon private land to discharge their duties. The section also provides that officers appointed under the *Forest Fires Prevention Act* are deemed to be officers appointed under the *Public Lands Act*.

SECTION 2.—Subsection 1. Section 13 of the Act deals with areas in territory without municipal organization that are designated as restricted areas by the Minister. Subsection 13 (3) of the Act now reads as follows:

(3) Every person who erects or causes to be erected a building or structure or makes or causes to be made any improvement on lands in an area designated by the Minister as a restricted area without a permit therefor and every person who contravenes or causes to be contravened any term or condition of a permit issued under this section is guilty of an offence and on conviction is liable to a fine of not more than \$500.

The amendment increases the maximum fine from \$500 to \$5,000.

Subsection 2. The new subsection 13 (3a) authorizes an officer to order that work that is being done without a permit cease and makes it an offence to continue such work after an order has been made.

The new subsection 13 (3b) authorizes a court to order the removal of any building or structure erected or improvement made in contravention of section 13 of the Act and provides that the Minister may effect the removal and recover the cost for so doing.

SECTION 3. The new section 13a requires a work permit where any activity such as mining, logging or industrial operations is to be carried on or any improvements are to be constructed on public lands. The section also creates an offence and provides penalties for contravention of the section. Provision is made to provide for appeals from refusal to issue or renew permits and to provide for exemptions for the requirement to have a permit.

SECTION 4. Subsection 16 (1) of the Act clarifies that the period of actual possession is to be determined by the *Limitations Act*. Subsection 16 (2) gives retroactive effect to quit claim letters patent that are issued to a predecessor in title.

SECTION 5. The new subsection 23 (4a) permits the Minister to recover any cost incurred in selling, disposing of or destroying any improvements made to public lands occupied without authority or where the person responsible for making the improvements refuses or neglects to remove them after authority to occupy the lands has terminated.

SECTION 6. The new section 23a authorizes the Minister to grant relief from forfeiture under subsection 22 (1) and subsection 23 (4) of the Act.

SECTION 7. Section 25 of the Act is amended by adding a subsection that authorizes the Minister to have the material, substance or thing thrown or deposited on public lands in contravention of subsection (1) removed and to recover any cost incurred in so doing.

SECTION 8. The purpose of the rewritten subsections is to permit the Minister to determine whether a Crown grant should be registered under the *Land Titles Act* or the *Registry Act* by removing directions to the Minister as to the office for registration. In many dispositions of public land, for example, shoreline road allowances or Crown reserves, the grantee already holds adjoining land registered under the *Registry Act* and by acquiring a Crown grant registered under the *Land Titles Act*, the grantee holds land with a split registration under both Acts causing hardship to land owners and their lawyers in future dealings with their lands.

SECTION 9. The new section 36a authorizes the Minister to deal with patented lands that have reverted to or become vested in the Crown, in the same manner as public lands that were never patented. Existing easements and the rights of adjoining owners would, however, be preserved.

SECTION 10. Section 37 of the Act prohibits employees of the Ministry from purchasing public lands without prior approval.

The new subsection creates an exception where public lands are purchased for private use and the conditions set out in the subsection are satisfied.

SECTION 11. The section is rewritten to abolish the Public Agricultural Lands Committee and to substitute the Minister in its place to accord with the Ministry's policy objective of increasing the efficiency of processing of applications for public agricultural land.

SECTION 12. The Act prohibits using public lands without authority. Currently, authority is given on a case-by-case basis by contractual agreement. The new section will permit certain common activities to be dealt with by the regulations.

SECTION 13. Section 53 of the Act deals with land sold under Part I of *The Public Lands Act*, being chapter 324 of the Revised Statutes of Ontario, 1960, or located under Part II of that Act.

The effect of the amendment is broadened to include any predecessor of *The Public Lands Act*, being chapter 324 of the Revised Statutes of Ontario, 1960, and any other Act under which public land was sold or located.

SECTION 14. The purpose of the new subsection is to void certain conditions concerning pine timber and cut timber contained in letters patent granting public lands for summer resort locations.

SECTIONS 15 and 17. Subsections 58 (5) and 66 (2) of the Act are rewritten to provide that the fee for certificates will be prescribed by the regulations instead of being set out in the Act.

SECTION 16. Section 63 of the Act deals with reservations in letters patent issued for land that is in a municipality.

The provisions are rewritten to include all land granted by letters patent and not just land that is in a municipality and to enlarge the classes of reservations that a Minister's order may affect to include a right-of-way. The purpose is to permit owners of land affected by the reservations to obtain a Minister's order releasing the reservations. The Minister will be able to treat an allowance along the shore of a lake or river or a right-of-way as a reservation. The fee for the order will be prescribed by regulation and not set out in the Act.

SECTION 18. Section 67 is repealed as it is unnecessary.

SECTION 19. The new section 67a provides for a general penalty section in order to facilitate enforcement of the Act or regulations for which no penalty is now provided.

Bill 203

1987

An Act to amend the Public Lands Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of the *Public Lands Act*, being chapter 413 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

5.—(1) The Minister may appoint such officers to carry out and enforce this Act and the regulations as the Minister considers necessary. Appointment of officers

(2) Subject to subsection (4), an officer appointed under subsection (1) and any person accompanying that officer and acting under the officer's instructions may, at all reasonable times and upon producing proper identification, enter and inspect any private land for the purposes of this Act. Entry upon private land

(3) An officer appointed under section 4 of the *Forest Fires Prevention Act* shall be deemed to be an officer appointed under subsection (1). Officer appointed under R.S.O. 1980, c. 173

(4) An officer or any person accompanying the officer and acting under the officer's instructions shall not enter any room or place actually used as a dwelling without the consent of the occupier, except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*. Search warrant R.S.O. 1980, c. 400

2.—(1) Subsection 13 (3) of the said Act is amended by striking out "\$500" in the eighth line and inserting in lieu thereof "\$5,000".

(2) Section 13 of the said Act is amended by adding thereto the following subsections:

(3a) An officer who finds a building or structure being erected or an improvement being made without the authority of a permit may order that work on the building, structure or improvement cease until a permit is obtained and any person Per diem penalty

continuing the work or causing the work to be continued in contravention of the order is guilty of an offence and on conviction is, in addition to any fine that may be imposed under subsection (3), liable to a fine of not less than \$200 for each day the work is continued in contravention of the order.

Order to
dismantle
and remove
building, etc.

(3b) Upon conviction of any person of an offence under this section, the court, in addition to the imposition of a fine, may order that person to dismantle and remove any building or structure erected or improvement made in contravention of this section within such time as the court orders and, if the person convicted fails to comply with the order, the Minister may cause the building, structure or improvement to be dismantled and removed and any cost or expense incurred thereby is a debt due the Crown and may be recovered by the Minister in a court of competent jurisdiction in an action against the person convicted.

3. The said Act is amended by adding thereto the following section:

Work permit
for work on
public lands

13a.—(1) Except in accordance with a work permit, no person shall,

- (a) carry on or cause to be carried on any logging, mining or industrial operation on public lands;
- (b) construct or place or cause to be constructed or placed any building, structure or thing on public lands;
- (c) clear any public lands or cause any public lands to be cleared;
- (d) dredge any shore lands or cause any shore lands to be dredged; or
- (e) fill any shore lands or cause any shore lands to be filled.

Conditions
attaching

(2) Every work permit is subject to the conditions set out thereon.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

- (a) governing the issuing, renewing and cancelling of work permits;

- (b) governing appeals from a refusal to issue or renew a permit, from a cancellation thereof or in respect of any conditions attaching to a work permit;
- (c) prescribing grounds for refusing to issue or to renew work permits;
- (d) prescribing conditions attaching to work permits and to any exemption from subsection (1);
- (e) prescribing fees payable for work permits or any classes thereof;
- (f) defining "shore lands" for the purpose of clauses 13a(1) (d) and (e); and
- (g) exempting any person or class of person from any provision of subsection (1).

(4) Any regulation may be general or particular in its application. Idem

(5) An officer who finds that there is a contravention of subsection (1) may order that the activity constituting the contravention cease until a work permit authorizing the activity has been obtained and any person continuing the activity or causing the activity to be continued after the order has been made is guilty of an offence and on conviction is, in addition to any fine that may be imposed under subsection (6), liable to a fine of not less than \$200 for each day the activity is continued in contravention of the order. *Per diem
penalty*

(6) Every person who contravenes any provision of subsection (1) or of a regulation made under subsection (3) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. Offence

(7) Upon conviction of a person of an offence under this section, the court, in addition to the imposition of a fine, may order that person to, Order to
dismantle
and remove,
etc.

- (a) cease all logging, mining or industrial operations carried on;
- (b) dismantle and remove any building, structure or improvement constructed or placed;
- (c) rehabilitate, in accordance with a plan approved by the Minister, any public lands cleared;

- (d) replace dredged material removed; or
- (e) remove any fill placed,

in contravention of subsection (1), within such time as the court orders and, if the person convicted fails to comply with the order, the Minister may cause to be done anything that the person convicted was ordered to do and any cost or expense incurred thereby is a debt due the Crown and may be recovered by the Minister in a court of competent jurisdiction in an action against the person convicted.

4. Section 16 of the said Act is repealed and the following substituted therefor:

Quit claim
letters
patent

R.S.O. 1980,
c. 240

16.—(1) Where the Minister is satisfied that the right to bring an action on behalf of Her Majesty against a person for the recovery of land is barred by subsection 3 (1) of the *Limitations Act*, the Minister may direct the issue of quit claim letters patent in respect of the land to that person or to that person's predecessor in title if the right of recovery was barred against that predecessor upon such conditions as the Minister considers proper.

Retroactive
effect

(2) Where quit claim letters patent are issued under subsection (1) to a person's predecessor in title, the quit claim letters patent shall specify a date during the period of time that the predecessor held title and the quit claim letters patent shall,

- (a) relate back to the date so specified; and
- (b) have the same effect as if issued at the date so specified.

5. Section 23 of the said Act is amended by adding thereto the following subsection:

Recovery of
cost and
expense

(4a) Any cost or expense incurred in the sale, disposition or destruction of a building or thing referred to in subsection (4) is a debt due the Crown and may be recovered by the Minister in a court of competent jurisdiction in an action against the person who,

- (a) constructed the building or caused it to be constructed; or
- (b) placed the thing or caused it to be placed on the land.

6. The said Act is further amended by adding thereto the following section:

23a. The Minister may make an order subject to such conditions as the Minister considers proper,

Restoration
of rights in
forfeited
property, etc.

- (a) restoring to a person the right, title or interest in any improvement, building or thing forfeited under subsection 22 (1); or
- (b) declaring that any improvement, building or thing on public lands possessed or occupied without lawful authority is not the property of the Crown notwithstanding subsection 23 (4).

7. Section 25 of the said Act is amended by adding thereto the following subsection:

(2) The Minister may remove or cause to be removed any material, substance or thing thrown or deposited contrary to subsection (1), and any cost or expense incurred thereby is a debt due the Crown and may be recovered by the Minister in a court of competent jurisdiction in an action against the person who threw or deposited the material, substance or thing or caused it to be deposited.

Removal of
material, etc.

8. Subsections 36 (2), (3), (4), (5) and (6) of the said Act are repealed and the following substituted therefor:

(2) Where a Crown grant of public lands is made, the Minister shall forward the instrument by which the Crown grant is made, together with a copy thereof, for registration to the land registry office in which the lands are situate.

Crown grants
registered
in land
registry
office

(3) Where a release is given under subsection 55 (5) or a grant of mineral rights is made under *The Canada Company's Lands Act, 1922*, the Minister shall forward the instrument by which the release or the Crown grant is made, together with a copy thereof, to the land registrar in whose office the land affected is registered.

Release,
grants of
minerals
registered
in land
registry
offices
1922, c. 24

(4) Upon receipt of an instrument and the copy thereof under subsection (2) or (3), the land registrar shall, without fee or other charge, register the instrument, note particulars of registration on the copy and forward the copy to the grantee at the address furnished by the Ministry.

Registration

9. The said Act is further amended by adding thereto the following section:

Definition

36a.—(1) In this section, “Crown” means Her Majesty the Queen in right of Ontario as represented by the Minister.

Certificate that land is public lands

(2) Where the Crown has become the registered owner of land that has been patented or otherwise disposed of or where land has reverted to or become vested in the Crown, the Minister may forward to the proper land registry office a certificate stating that the land is deemed to be public lands.

Registration

(3) The land registrar shall, without fee or charge, register every certificate received under subsection (2).

Effect of registration

(4) Upon registration of a certificate under subsection (3),

R.S.O. 1980,
cc. 230, 445

(a) the *Land Titles Act* or the *Registry Act*, as the case may be, ceases to apply to the land described in the certificate and the land registrar shall note that fact in the appropriate register or abstract index; and

(b) the land described in the certificate may be granted, sold, leased or otherwise dealt with in the same manner as other public lands.

Easements

(5) Where an easement is appurtenant to land described in a certificate registered under subsection (3), or where the land is subject to an easement, the easement is not affected by registration of the certificate.

Restrictive covenants

(6) For the purposes of this section, a restrictive covenant running with land is considered to be an easement.

Rights of adjoining owners

(7) Where a person having a registered interest in land adjoining land described in a certificate registered under subsection (3) has acquired an interest in the land described in the certificate by possession or by making improvements thereon, the interest so acquired is not affected by registration of the certificate, unless a copy of the certificate is served on the person at least sixty days before registration and no objection to its registration is filed with the land registrar during the sixty-day period.

10. Section 37 of the said Act is amended by adding thereto the following subsection:

Exception

(2) Subsection (1) does not apply where a purchase is made of a right, title or interest in public lands for private use at a public auction or where the purchase is made for private use and the purchaser is selected by public draw.

11. Section 43 of the said Act is repealed and the following substituted therefor:

43. The Minister may enter into agreements for the sale or other disposition of land for agricultural purposes to such persons, at such prices or rentals and subject to such conditions as the Minister may determine. Agreements
for
agricultural
lands

12. The said Act is further amended by adding thereto the following section:

44a. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the fee for any type of authority to use or enter upon public lands and facilities;
- (b) regulating the use of, or the kinds of activities carried on upon, public lands.

13. Section 53 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

53. Where public land was, before the 29th day of March, 1961, sold or located under the authority of any Act, the Minister may direct the issue of letters patent to the purchaser or locatee or any person claiming under or through the purchaser or locatee, Issue of
letters patent

14. Section 55 of the said Act is amended by adding thereto the following subsection:

(3a) Every condition, Idem

- (a) prohibiting the cutting of pine timber except for necessary building or clearing with the written permission of the Minister and in default prescribing penalties and exacting prices for cut timber; and
- (b) providing for the manner of disposal of cut timber,

contained in letters patent granting public lands disposed of under any Act for a summer resort location is void.

15. Subsection 58 (5) of the said Act is repealed and the following substituted therefor:

Fee for
certificate

(5) An applicant for a certificate under subsection (4) shall pay the fee prescribed therefor by the regulations.

16. Section 63 of the said Act is repealed and the following substituted therefor:

Release
of road
reservations

63.—(1) Where letters patent have been issued for land in respect of which there is a reservation referred to in section 62 and the Minister is of the opinion that the present and future needs of the locality as to roads are adequately provided for, the Minister shall, upon the owner of the affected land applying therefor and paying the fee prescribed therefor by the regulations, make an order releasing the land or any part thereof from the reservation.

Release of
reservation

(2) Where the Minister is of the opinion that a reservation in letters patent reserving,

(a) the right of access to the shores of rivers, streams and lakes for vessels, boats and persons; or

(b) a right-of-way,

does not serve a useful purpose and is not required in the public interest and the owner of the land affected applies for a release from the reservation and pays the fee prescribed therefor by the regulations, the Minister shall make an order releasing the land or any part thereof from the reservation.

Power to
determine
reservation

(3) Where letters patent have been issued reserving or excepting an allowance along the shore of a lake or river or a right-of-way, the Minister may treat the reservation or exception as a reservation referred to in subsection (1) or (2) in which event the Minister may issue the order that the Minister could issue under subsection (1) or (2).

Effect of
order

(4) An order made under this section releases the land described in the order from the reservation referred to in the order and may be registered in the proper land registry office.

17. Subsection 66 (2) of the said Act is repealed and the following substituted therefor:

Fee for
certificate

(2) An applicant for a certificate under subsection (1) shall pay the fee prescribed therefor by the regulations.

18. Section 67 of the said Act is repealed.

19. The said Act is further amended by adding thereto the following section:

67a. Except where otherwise provided, every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Penalty not
otherwise
provided for

20. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

21. The short title of this Act is the *Public Lands Amendment Act, 1987*.

Short title

Bill 204

An Act to amend the Municipal Act and the Education Act

The Hon. B. Grandmaître
Minister of Municipal Affairs

<i>1st Reading</i>	February 11th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

The purpose of the Bill is to allow counties in the Province of Ontario to apply to the Minister of Revenue for the reassessment of all real property in the county on the same market value basis. A reassessment shall not be undertaken unless the council of the county and the councils of a majority of the local municipalities in the county agree to the reassessment.

The Bill would also alter the method by which school boards and the county requisition the amounts necessary for their purposes from the local municipalities. To accomplish this purpose it is also necessary to amend the *Education Act*.

Bill 204

1987

**An Act to amend the
Municipal Act and the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 365 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(6a) A county for which a reassessment has been carried out under section 368b shall, in its by-law under subsection (6), specify and determine the rates to be levied by each municipality for purposes of raising the amount it is required to provide and shall direct each municipality to levy those rates.

Where
reassessment
carried out

2. The said Act is amended by adding thereto the following sections:

368a. In sections 368b to 368l,

Definitions

“commercial assessment” means the total, according to the last returned assessment roll, of,

- (a) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal or regional corporation or local board thereof,
- (b) business assessment, and
- (c) the assessment for mineral lands, pipe lines and railway lands, other than railway lands actually in use for residential and farming purposes;

“lower tier municipality” means a town, village or township in a county, but excludes a separated town or separated township;

R.S.O. 1980,
c. 129

“public school board” means a public board as defined in paragraph 42a of subsection 1 (1) of the *Education Act*;

“residential and farm assessment” means the total assessment for real property according to the last returned assessment roll except the assessments for real property mentioned in clauses (a) and (c) of the definition of “commercial assessment”;

“separate school board” means a separate school board as defined in paragraph 59a of subsection 1 (1) of the *Education Act*;

“weighted assessment” means for the relevant area the total of,

- (a) the product obtained by multiplying the residential and farm assessment by 85 per cent, and
- (b) the commercial assessment.

Interpretation

368b.—(1) For the purposes of this section, subsection 368c (1) and section 368d, “county” includes any cities, separated towns and separated townships situate in the county.

County-wide
reassessment

(2) If the Minister of Revenue considers that, within any class or classes of real property within a county, any parcel or parcels of real property is assessed inequitably with respect to the assessment of any other parcel or parcels of real property of that class, the Minister of Revenue may direct that such changes be made in the assessment to be contained in the assessment roll next to be returned for each local municipality as will, in the Minister’s opinion, eliminate or reduce inequalities in the assessment of any class or classes of real property, and the Minister of Revenue may, for that purpose, make regulations,

- (a) prescribing the classes of real property into which all the real property in the county shall be divided for the purpose of this subsection;
- (b) prescribing standards and procedures to be used for the purpose of equalizing and making equitable the assessments of all real property belonging to the same class throughout the county;

- (c) providing that any equalization of assessment pursuant to a regulation made under clause (b) shall not alter, as between classes of real property throughout the county, the relative level of assessment at market value previously existing among such classes, or providing that the equalization shall alter such levels of assessment at market value no more than is reasonably necessary to provide equitability of assessment within each class.

(3) Except as provided in subsection (7), the Minister of Revenue shall not make a direction under subsection (2) unless, Resolution required

- (a) the council of the county; and
- (b) the councils of a majority of the local municipalities in the county,

have requested by resolution that a direction be made.

(4) If the assessment roll of a local municipality for taxation in any year is changed pursuant to a direction of the Minister of Revenue under subsection (2), Application of new assessment roll

- (a) the assessment roll to be returned for that local municipality for taxation in that year shall be the assessment roll as so changed and not the assessment roll that would otherwise have been returned; and
- (b) the assessment roll to be returned in each year following that year shall be the assessment roll returned under clause (a) as amended, added to, or otherwise altered under the *Assessment Act* up to the date when the assessment roll is returned in each such following year.

R.S.O. 1980,
c. 31

(5) Notwithstanding subsection (4), where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property. Exception

(6) For the purpose of every Act, the assessment roll of a local municipality returned under subsection (4) shall be deemed to be the assessment roll of the local municipality returned under the *Assessment Act*. Status of assessment roll

R.S.O. 1980,
c. 31

Mandatory
return of
updated roll
every fourth
year

(7) In every fourth year following the most recent direction under subsection (2), the Minister of Revenue shall make a direction under subsection (2) for changes to be made to the assessment roll of each local municipality.

Provisions
of
R.S.O. 1980,
c. 31

(8) Except as provided in subsections (2) and (7), the *Assessment Act* and the alterations, corrections, additions and amendments authorized by that Act apply to an assessment roll returned under subsection (4).

Idem

(9) Where a direction has been made under subsection (2) in respect of the assessment roll of a local municipality for purposes of taxation in any year subsections 63 (1) and (3) and sections 64 and 65 of the *Assessment Act* do not apply to that municipality or to the assessment roll of that local municipality in respect of that year and all subsequent years.

Powers on
appeal

(10) The Assessment Review Board, the Ontario Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Ontario Municipal Board or court is satisfied that the assessment is inequitable with respect to the assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property.

Where
property
described in
class
prescribed
under
subs. (2)

(11) Notwithstanding that a complaint, appeal, proceeding or action concerns an assessment made for taxation in a year prior to the year for which classes of real property were prescribed for the county under subsection (2), for the purpose of determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, real property described in a class prescribed under subsection (2) for the county is not similar to real property described in another class prescribed under subsection (2) for the county, and the inclusion of real property within a class so prescribed does not indicate that the real property is similar to other real property in that class.

No
amendment
to collector's
roll
R.S.O. 1980,
c. 31

(12) No amendment shall be made to the assessment or a collector's roll under clause 33 (a) of the *Assessment Act* until the cumulative value of the increase since the date of the most recent change to the assessment roll under a direction of the Minister of Revenue under subsection (2) is at least in the

sum of \$5,000 at market value or, if the assessment in the county is at less than market value, at an equivalent rate.

(13) For purposes of subsection 24 (16a) of the *Assessment Act*, changes made in the assessment roll of a local municipality under a direction of the Minister of Revenue under subsection (2) shall be deemed to be a reassessment of all property within that local municipality under subsection 63 (3) of the *Assessment Act*.

Table of rates for pipe lines
R.S.O. 1980, c. 31

(14) Nothing in section 368d, 368e or 368f in any way deprives any person of any right of appeal provided for in the *Assessment Act* or affects the operation of subsection 36 (6) of that Act.

Rights of appeal preserved

(15) A regulation made under subsection (2) may be made retroactive to the 1st day of December of the year preceding the year in which it was made.

Regulations may be retroactive

368c.—(1) Sections 368d to 368l apply only if a different assessment of lands in each local municipality in the county has been instituted pursuant to a direction of the Minister of Revenue under subsection 368b (2).

Different assessment generally throughout the county

(2) The Lieutenant Governor in Council may, in respect of a county where a reassessment has been carried out under section 368b, in a regulation made under section 9a of the *Ontario Unconditional Grants Act*, prescribe an alternative basis on which apportionments are to be made and may prescribe the manner of determining the mill rates to be specified and determined under subsection 365 (6).

Alternative basis of apportionment

R.S.O. 1980, c. 359

(3) A basis of apportionment prescribed for a county by the Lieutenant Governor in Council under subsection (2) shall be deemed to have been prescribed under subsection 9a (1) of the *Ontario Unconditional Grants Act* as an alternative to the basis of apportionment that would have been prescribed for that county under subsection 9a (1) if the county had not been subject to a reassessment under section 368b.

Deeming provision

(4) Subsections 365 (1) to (5) and (8) to (12) and (16) to (19) and sections 366 and 368 do not apply to a county mentioned in subsection (2) and such a county shall apportion the sums required for its purposes in accordance with the alternative basis prescribed under subsection (2) and not in accordance with the basis for apportionment set out in section 365.

County apportionment provision not applicable

(5) Notwithstanding subsection 216 (2) of the *Education Act*, where the amount levied by a local municipality for county purposes or school purposes in the year prior to the

Adjustment of levies
R.S.O. 1980, c. 129

year for which a change in assessment is made pursuant to a direction of the Minister of Revenue under subsection 368b (2), differs from the sum the local municipality ought to have levied for county purposes or school purposes, the local municipality shall debit or credit such deficit or surplus, as applicable, to the general funds of the municipality and not revise the rates to be levied for such body in the next succeeding year.

Determin-
ation of
school rates

368d.—(1) In each year, each public school board and separate school board having jurisdiction in part or all of the county shall determine the rates to be levied by the applicable local municipalities in the county to provide the sums required for elementary and secondary school purposes in that year and shall specify the amount that is to be provided in that year by the application of those rates within each such local municipality in the county.

Idem
R.S.O. 1980,
c. 129

(2) The determinations required by subsection (1) shall be made in accordance with subsection 222 (1) of the *Education Act*.

Direction
to local
municipality

(3) On or before the 1st day of March in each year, the school boards mentioned in subsection (1) shall direct the council of each applicable local municipality in the county to levy the rates determined by the board under subsection (1) and shall advise the local municipality of the amounts of money to be raised by levying those rates in the local municipality.

Local
municipality
to levy and
collect

(4) In each year, the council of a local municipality shall levy rates in accordance with the directions under subsection (3) upon all property in the local municipality rateable for public school board or separate school board purposes, as may be appropriate.

Full value
to be used

(5) The full value of all applicable rateable property shall be used in determining,

- (a) the weighted assessment for each local municipality for purposes of apportioning among the applicable local municipalities within the county the sums required for school purposes by each public school board and separate school board;
- (b) the rates mentioned in subsection (1); and
- (c) the assessment upon which the rates are to be levied under sections 128, 133 and 215 of the *Education Act*,

and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

R.S.O. 1980,
c. 31

(6) For the purposes of determining and levying rates under this section, a reference in the *Education Act* to “commercial assessment” or “residential and farm assessment” shall be deemed to be a reference to such assessments as defined in section 368a of this Act and not as defined in section 220 of that Act.

Definitions
in
R.S.O. 1980,
c. 129, s. 220

(7) Subsection 219 (2) of the *Education Act* does not apply to the determination of rates under subsection (1).

Non-
application
of
R.S.O. 1980,
c. 129,
subs. 219 (2)

(8) Except as provided in this section, the *Education Act* continues to apply to the levying of rates and collecting of taxes for each public school board and separate school board having jurisdiction in all or part of the county.

Application
of
R.S.O. 1980,
c. 129

368e.—(1) In each year, the council of each lower tier municipality in a county shall levy, in accordance with the rating by-laws passed by the council of the county for that year under subsection 365 (6), separate rates on the residential and farm assessment in the lower tier municipality rateable for county purposes and on the commercial assessment in the lower tier municipality rateable for county purposes.

Lower tier
municipality
to adopt
county rates

(2) The full value of all rateable property shall be used in determining the assessment on which a levy shall be made under subsection (1), and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

Full value
to be used

R.S.O. 1980,
c. 31

368f.—(1) In this section,

Definitions

“local municipality levy” means the amount required for local municipality purposes under section 164 including the sums required for any board, commission or other body, but excluding those amounts required to be raised for county and school purposes;

“special local municipality levy” means an amount to be raised by a local municipality that is not included in the local municipality levy, but excluding those amounts required to be raised for county and school purposes.

(2) The council of each local municipality shall, in each year in accordance with subsections (3) and (4), levy separate rates on the whole of the rateable commercial assessment and

Local
municipality
levies

on the whole of the rateable residential and farm assessment in respect of the local municipality levy and the special local municipality levy.

Determin-
ation of
commercial
mill rates

(3) The rates to be levied in each year, on commercial assessment for each separate levy specified in subsection (2), shall be determined by multiplying the sum required for each levy by 1,000 and dividing the product,

- (a) by the weighted assessment for the local municipality, in the case of a local municipality levy; and
- (b) by the weighted assessment determined on the basis of the assessment that is rateable for the purpose of raising the special local municipality levy, in the case of a special local municipality levy.

Determin-
ation of
residential
mill rates

(4) The rates to be levied in each year, on residential and farm assessment for each separate levy specified in subsection (2), shall be 85 per cent of the rate to be levied on commercial assessment in accordance with subsection (3).

Non-
application
of
R.S.O. 1980,
c. 359, s. 7

(5) Section 158 of this Act and section 7 of the *Ontario Unconditional Grants Act* do not apply to a local municipality to which this section applies.

Local
municipality
levy

(6) A reference in any other section of this Act or in any other Act to a levy by a local municipality under section 158 of this Act or section 7 of the *Ontario Unconditional Grants Act* shall, with respect to a local municipality to which this section applies, be deemed to be a reference to a levy under this section or under section 368e, as the case may be.

Tax exempt
real property

(7) The assessment for real property that is exempt from taxation for local municipality purposes by virtue of any Act or by virtue of a by-law passed by the council of a local municipality under any Act shall not be included when determining the weighted assessment for purposes of clause (3) (a) or (b).

Interim
financing,
local
municipalities

368g.—(1) The council of a local municipality may for any year, before the adoption of the estimates for the year, levy such rates as it may determine on the rateable commercial assessment and on the rateable residential and farm assessment in the local municipality.

By-law in
December
of preceding
year

(2) A by-law for levying rates under subsection (1) shall be passed in the year that the rates are to be levied or may be passed in December of the preceding year if it provides that it

does not come into force until a specified day in the following year.

(3) The rate that may be levied on any assessment under subsection (1) shall not exceed 50 per cent of the total of the rates that were levied or would have been levied on that assessment for all purposes in the preceding year. Determination of rate

(4) If the assessment roll for taxation in the current year has not been returned, the rate levied under subsection (1) may be levied on the assessment according to the assessment roll used for taxation purposes in the preceding year. Assessment roll

(5) The amount of any levy made on an assessment under subsection (1) shall be deducted from the total amount levied on the assessment for that year under sections 368d, 368e and 368f. Interim levy deducted from final levy

(6) Where the taxes levied on an assessment for real property or on a business assessment under this section exceed the taxes to be levied on that assessment for the year under sections 368d, 368e and 368f, the treasurer of the local municipality shall, not later than twenty-one days following the giving of a notice of demand of taxes payable, refund to the person assessed that portion of the taxes paid in excess of the amount payable for the year pursuant to a levy made under sections 368d, 368e and 368f. Interim levy in excess of final levy

368h. Where a direction has been made under subsection 368b (2) that a new assessment roll be returned for taxation in the current year, the Minister may by order, Power of Minister

(a) prescribe the maximum rates that may be levied by the council of each local municipality under subsection 368g (1); and

(b) extend the time for the council of the county to pass its rating by-law under subsection 365 (6) notwithstanding that the time limit set out therein has expired.

368i.—(1) In this section,

Definitions

“payment in lieu of taxes” means an amount that a local municipality is eligible to receive under,

(a) subsection 26 (3), (4) or (5) of the *Assessment Act*, R.S.O. 1980, c. 31

(b) subsection 7 (6) of the *Housing Development Act*, but not including that portion payable to a school R.S.O. 1980, c. 209

board in accordance with subsection 7 (10) of that Act,

(c) section 160 and subsection 160a (3) of this Act,

R.S.O. 1980,
c. 311

(d) subsection 4 (1), (2) or (3) of the *Municipal Tax Assistance Act*,

R.S.O. 1980,
c. 361

(e) section 42 of the *Ontario Water Resources Act*,

R.S.O. 1980,
c. 384

(f) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act,

R.S.O. 1980,
c. 510

(g) section 10 or 11 of the *Trees Act*,

1980-81-82-
83, c. 37
(Can.)

(h) the *Municipal Grants Act, 1980* (Canada), or

(i) any Act of Ontario or of Canada or any agreement where the payment is from any government or government agency and is in lieu of taxes on real property or business assessment, but not including a payment referred to in section 498;

“taxes for county purposes” means the taxes levied by a lower tier municipality for county purposes as specified in a rating by-law under section 368e, excluding any adjustments under section 32 or 33 of the *Assessment Act*;

R.S.O. 1980,
c. 31

“taxes for local purposes” means the taxes levied by a lower tier municipality for local purposes under subsection 368f (2), excluding any adjustments under section 32 or 33 of the *Assessment Act*;

“total taxes for all purposes” means the sum of the amounts levied by a lower tier municipality under sections 368d, 368e and 368f, excluding any adjustments under section 32 or 33 of the *Assessment Act*.

R.S.O. 1980,
c. 31

Lower tier
municipality
to share
payment in
lieu of taxes

(2) Where a lower tier municipality is eligible to receive a payment in lieu of taxes for any year, it shall pay to the treasurer of the county a portion equal to the amount obtained by multiplying the amount that the lower tier municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for county purposes for the year by the total of,

(a) the taxes for local purposes for the year; and

(b) the taxes for county purposes for the year.

(3) Notwithstanding subsection (2), if a lower tier municipality is eligible to receive a payment in lieu of taxes for any year under,

Sharing of
certain
payments

(a) subsection 26 (3), (4) or (5) of the *Assessment Act*;

(b) section 42 of the *Ontario Water Resources Act*;

R.S.O. 1980,
c. 361

(c) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including the portion payable to a school board in accordance with subsection 46 (9) of that Act;

R.S.O. 1980,
c. 384

(d) section 10 or 11 of the *Trees Act*; or

R.S.O. 1980,
c. 510

(e) the *Municipal Grants Act, 1980* (Canada),

1980-81-82-
83, c. 37
(Can.)

and the calculation of the payment is based in part on the rates that were levied for school purposes, then the portion to be paid under subsection (2) shall be calculated by multiplying the amount that the lower tier municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for county purposes for the year by the total taxes for all purposes for the year.

(4) The treasurer of each lower tier municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the county showing an estimate of the amount that the lower tier municipality will be required to pay to the county for the year under subsection (2).

Treasurer
to provide
estimate of
share

(5) Where a local municipality is required to pay a portion of a payment in lieu of taxes to the county under subsection (2), or to a school board, the provisions of,

Allocation
of payments
in lieu of
taxes

(a) subsections 26 (7) and (9) of the *Assessment Act*;

R.S.O. 1980,
c. 31

(b) subsection 7 (10) of the *Housing Development Act*;

R.S.O. 1980,
c. 209

(c) subsections 160 (12) and (16) and subsection 160a (4) of this Act; and

(d) subsection 46 (7) of the *Power Corporation Act*,

R.S.O. 1980,
c. 384

with respect to the equalization of assessment or allocation and deposit of payments shall not apply to that entitlement.

Payment of
portion of
telephone
and
telegraph tax

368j.—(1) Each lower tier municipality shall pay a portion of the tax levied by it under subsections 161 (12) and (13) to the county and appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each such body bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes.

Idem

(2) Each city, separated town and separated township shall pay a portion of the tax levied by it under subsections 161 (12) and (13) to the appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each public school board bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes.

Exclusion of
taxes added
to collector's
roll

R.S.O. 1980,
c. 31

(3) In determining the taxes levied on commercial assessment for the purposes of subsection (1) or (2), there shall be excluded any adjustments under section 32 or 33 of the

Assessment Act.

Statement
by treasurer

(4) The treasurer of each local municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the county and the appropriate public school boards showing an estimate of the amount which the local municipality will be required to pay to that body for the year under subsection (1) or (2).

Non-
application

(5) Subsections 161 (18) to (24) do not apply to a local municipality to which this section applies.

Payment of
payments in
lieu and
telephone
and telegraph
levies

368k.—(1) An amount payable by a local municipality to the county under subsection 368i (2) or to the county or a public school board under subsection 368j (1) or (2) is a debt of the local municipality to the county or school board, as the case may be, and, subject to subsection (2), instalments are payable in each year on account thereof as follows:

1. A first instalment equal to 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 31st day of March.
2. A second instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of June.
3. A third instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of September.

4. A fourth instalment of the balance of the entitlement for the year, on or before the 15th day of December.

(2) The council of the county or the school boards having jurisdiction in all or part of the county may, by agreement each year with a majority of the local municipalities within the county that represent at least two-thirds of the total weighted assessment for all of the local municipalities within the county, provide for an alternative number of instalments and due dates thereof other than those provided in subsection (1) which shall be applicable to all the local municipalities in the county.

Alternative
payment
schedule

(3) An amount payable by a local municipality under subsection 368i (2) or subsection 368j (1) or (2), shall be credited by the county or school board to its general revenues.

General
revenues

(4) If a local municipality fails to make any payment as provided under subsection (1) or as altered under subsection (2), the local municipality shall pay to the county or school board, as applicable, interest on the amount past due at the rate of 15 per cent per annum, or at such lower rate as the school board or county may by by-law determine from time to time.

Default

(5) Where the total amount paid for the year under subsection (1) exceeds the total amount payable for the year under subsections 368i (2), 368j (1) and (2), the local municipality shall notify the county or the school board, as the case may be, of the amount of the overpayment and the county or school board shall forthwith pay that amount to the local municipality.

Overpayment

(6) On or before the 31st day of December in each year, the treasurer of each local municipality shall deliver to the bodies entitled to a payment under subsection 368i (2) or subsection 368j (1) or (2), a statement sufficient to enable the body to determine the correctness of the amount payable in the year.

Treasurer's
statement

(7) Notwithstanding subsection (1), in the first year of an initial reassessment under subsection 368b (2), the instalments payable under paragraphs 1, 2 and 3 of subsection (1) shall each be equal to 25 per cent of the amounts estimated under subsections 368i (4) and 368j (4).

Transitional

3681.—(1) Where changes are made in the assessment rolls of local municipalities under a direction of the Minister of Revenue under subsection 368b (2) and the changes directly affect the relative cost sharing of conservation author-

Conservation
authority
apportion-
ments

ity responsibilities for any municipality beyond the county or cause within the county substantial tax shifts between municipalities, property classes or individual properties, the Lieutenant Governor in Council may, in order to minimize such effects, make regulations prescribing an alternative basis of apportionment to that specified under the *Conservation Authorities Act*.

R.S.O. 1980,
c. 85

Regulation
may be
retroactive

(2) A regulation made under subsection (2) may be made retroactive to a date not earlier than the 1st day of January of the year in which it is made.

2.—(1) Subsection 130 (10) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

Non-
application

(10) This section does not apply to the Sudbury District Roman Catholic Separate School Board or to a separate school board having jurisdiction wholly or partly in a county where a reassessment has been carried out under section 368b of the *Municipal Act*.

R.S.O. 1980,
c. 302

(2) Subsection 214 (6) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

Non-
application

(6) Subsections (3) and (5) do not apply to an area municipality in The Regional Municipality of Sudbury or to a local municipality in a county where a reassessment has been carried out under section 368b of the *Municipal Act*.

(3) The said Act is amended by adding thereto the following section:

Regulations
for separate
school board
apportionment

214b.—(1) The Lieutenant Governor in Council may make regulations providing for the apportionment of the sums required by a separate school board to which this section applies among the local municipalities or parts thereof that are situate wholly or partly within its area of jurisdiction.

Application
of section

(2) This section applies to those separate school boards having jurisdiction wholly or partly within and partly outside a county where a reassessment has been carried out under section 368b of the *Municipal Act*.

R.S.O. 1980,
c. 302

Application
of regulation

(3) In any year in which a regulation made under subsection (1) is in force, the sums mentioned in that subsection shall be apportioned among the local municipalities or parts thereof in accordance with the regulation.

(4) Where, in making the apportionment in accordance with a regulation made under this section, estimated data are used, an overpayment or underpayment by a local municipality or part thereof, other than a local municipality situate in a county where a reassessment has been carried out under section 368b of the *Municipal Act*, determined on the basis of actual data, shall be adjusted in the levy for the following year.

Where
estimated
data used

R.S.O. 1980,
c. 302

(4) Subsection 222 (4) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

(4) Subsection (2) does not apply to an area municipality in The Regional Municipality of Sudbury or a local municipality in a county where a reassessment has been carried out under section 368b of the *Municipal Act*.

Non-
application

(5) Section 225 of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

225. In the event of a conflict between any provision in sections 220 to 224 and any provision in any other Act, other than the *Regional Municipality of Sudbury Act* and section 368d of the *Municipal Act*, the provisions in sections 220 to 224 prevail.

Conflict

R.S.O. 1980,
cc. 441, 302

3. Nothing in this Act affects the validity of an interim levy made in the year 1987 under section 159 of the *Municipal Act* prior to the coming into force of this Act by a local municipality in a county where a reassessment has been carried out under section 368b in the year 1987 and subsections 368g (4), (5) and (6) of that Act, as enacted by this Act, apply with necessary modifications to any such interim levy.

Transition

R.S.O. 1980,
c. 302

4. This Act shall be deemed to have come into force on the 1st day of January, 1987.

Commence-
ment

5. The short title of this Act is the *Municipal Statute Law Amendment Act, 1987*.

Short title

Bill 205

An Act to amend the Residential Rent Regulation Act, 1986

Ms Bryden

<i>1st Reading</i>	February 11th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

The purpose of the Bill is to amend the exemption provision in clause 4 (3) (a) of the Act in order to eliminate the exemption for buildings operated or administered but not owned by the Government of Canada or any agency thereof.

Bill 205

1987

**An Act to amend the
Residential Rent Regulation Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 4 (3) (a) of the *Residential Rent Regulation Act, 1986*, being chapter 63, is repealed and the following substituted therefor:

- (a) a rental unit situate in a residential complex owned by the Government of Canada or owned, operated or administered by or on behalf of the Government of Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, except where otherwise prescribed, but where the tenant occupying the rental unit pays rent to a landlord which is not the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, this Act does apply.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Residential Rent Regulation Amendment Act, 1987*. Short title

Bill 206

An Act to amend certain Acts respecting Regional Municipalities

The Hon. B. Grandmaître
Minister of Municipal Affairs

1st Reading February 11th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill amends the ten Acts that govern regional municipalities.

Paragraph 1 describes amendments that are common to all ten of the regional municipalities.

Paragraphs 2 to 4 describe amendments related only to the regional municipalities named in the particular paragraphs.

1. All Regional Municipalities

Subsections 1 (1), 2 (2), 3 (3), 4 (4), 5 (1), 6 (1), 7 (2), 8 (1), 9 (1) and 10 (1). It is proposed that each Regional Council be given the power to establish, maintain and operate or discontinue fluoridation systems. The *Fluoridation Act* will cease to apply to the area municipalities.

Subsections 1 (2), 2 (1), 3 (2), 4 (3), 5 (3), 6 (2), 7 (1), 8 (3), 9 (2) and 10 (2). A provision made obsolete by the repeal of the *Juvenile Delinquents Act* (Canada) is repealed.

Subsections 1 (3), 2 (3), 3 (4), 4 (5), 5 (4), 6 (5), 7 (3), 8 (4), 9 (3) and 10 (3). The proposed amendments adopt two provisions of the *Municipal Act* and makes them applicable to Regional Councils. Section 78a of the *Municipal Act* deals with transfers and storage of documents. Section 78b of that Act allows certified copies of documents to be received in evidence in any court or tribunal instead of the original.

Subsections 1 (4), 2 (4), 3 (5), 4 (6), 5 (5), clause 6 (6) (a), subsections 7 (4), 8 (5), 9 (4) and 10 (4). The proposed amendment would make section 112 of the *Municipal Act* applicable to Regional Councils. This section prohibits bonuses being paid by the Regional Council to any business.

2. Regional Municipalities of Halton, Niagara and Sudbury

Subsections 3 (1), 5 (2) and 8 (2). The proposed amendment would authorize the Regional Council to use undisbursed interest accumulated on the trust accounts of residents of the Regional homes for the aged for the general benefit of residents of those homes for the aged.

3. Regional Municipality of Hamilton-Wentworth

Subsection 4 (1). The proposed section would permit the Regional Corporation to enter into agreements with the owners or lessees of land abutting a highway under the jurisdiction of the Regional Corporation for various purposes.

Subsection 4 (2). Subsection 79 (2) of the Act which relates to hospital board appointments by Regional Council is repealed.

4. Regional Municipality of Ottawa-Carleton

Subsections 6 (3, 4). These subsections would authorize the Regional Council to establish Day Care Service Areas and to allocate the costs to the participating area municipalities.

Clause 6 (6) (b). The Regional Council, by the adoption of paragraph 55 of section 208 of the *Municipal Act*, would have the power to establish and operate municipal parking lots.

Subsection 6 (7). This subsection would authorize the Regional Council to enter into agreements to provide for the establishment and operation of a centralized communication system.

Bill 206

1987

**An Act to amend
certain Acts respecting Regional Municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

REGIONAL MUNICIPALITY OF DURHAM

1.—(1) The *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

52a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

Regulations

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluori-
dation
of water
supply
in area

(2) Section 90 of the said Act is repealed.

(3) Subsection 129 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 5, is amended by inserting after "5" in the first line "78a, 78b".

(4) The said subsection 129 (1) is further amended by inserting after "109" in the second line "112".

REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

2.—(1) Section 64 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is repealed.

(2) The said Act is amended by adding thereto the following section:

Fluoridation
system

R.S.O. 1980,
c. 171

Non-
application

Regulations

Continuation
of fluori-
dation
of water
supply
in area

74a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

(2) The *Fluoridation Act* does not apply to any area municipality.

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(3) Subsection 111 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 12, is amended by inserting after "5" in the first line "78a, 78b".

(4) The said subsection 111 (1) is further amended by inserting after "109" in the second line "112".

REGIONAL MUNICIPALITY OF HALTON

3.—(1) The *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Trust fund
disbursement

71a. The trust fund, composed of undisbursed interest accumulated prior to the 2nd day of November, 1980, on the trust accounts of residents of the Regional Municipality of Halton Homes for the Aged, is vested in the Regional Corporation for distribution of both the fund and interest accruing thereon by the Regional Council in its absolute discretion for the general benefit of the residents of the Regional Municipality of Halton Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

(2) Section 75 of the said Act is repealed.

(3) The said Act is further amended by adding thereto the following section:

85a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*. Fluoridation system
R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality. Non-application

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act. Regulations

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection. Continuation of fluoridation of water supply in area

(4) Subsection 122 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 17, is amended by inserting after “5” in the first line “78a, 78b”.

(5) The said subsection 122 (1) is further amended by inserting after “109” in the second line “112”.

REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

4.—(1) The *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

39a.—(1) The Regional Council may by by-law authorize agreements between the Regional Corporation and the owners or lessees of land abutting on a highway under the jurisdiction and control of the Regional Corporation for the construction, maintenance and use of buildings or parts thereof, over, across or under the highway upon such terms and conditions as may be agreed and for leasing or licensing the use of the air space over the highway or the lands under the highway to such persons and for such consideration and upon such terms and conditions as may be agreed. Agreements respecting highways

(2) An agreement made under subsection (1) that affects a highway or a highway right of way that is a connecting link, within the meaning of section 21 of the *Public Transportation Act*, shall be subject to the approval of the Regional Council. Approval of agreement
R.S.O. 1980,
c. 421

and *Highway Improvement Act* shall have no effect until approved by the Minister of Transportation and Communications.

(2) Subsection 79 (2) of the said Act is repealed.

(3) Section 86 of the said Act is repealed.

(4) The said Act is further amended by adding thereto the following section:

Fluoridation
system

R.S.O. 1980,
c. 171

Non-
application

Regulations

Continuation
of fluori-
dation
of water
supply
in area

96a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

(2) The *Fluoridation Act* does not apply to any area municipality.

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(5) Subsection 133 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 46, section 4, is amended by inserting after “5” in the first line “78a, 78b”.

(6) The said subsection 133 (1) is further amended by inserting after “110” in the second line “112”.

REGIONAL MUNICIPALITY OF NIAGARA

5.—(1) Subsections 31 (2) and (3) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Fluoridation
system

R.S.O. 1980,
c. 171

Non-
application

(2) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

(3) The *Fluoridation Act* does not apply to any area municipality.

(4) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

Regulations
R.S.O. 1980,
c. 171

(5) Notwithstanding that a by-law has not been passed under subsection (2), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluoridation
of water
supply
in area

(2) The said Act is amended by adding thereto the following section:

110a. The trust fund, composed of undisbursed interest accumulated prior to the 1st day of January, 1984, on the trust accounts of residents of the Regional Municipality of Niagara Homes for the Aged, is vested in the Regional Corporation for distribution of both the fund and interest accruing thereon by the Regional Council in its absolute discretion for the general benefit of the residents of the Regional Municipality of Niagara Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

Trust fund
disbursement

(3) Section 112 of the said Act is repealed.

(4) Subsection 161 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 31, is amended by inserting after "5" in the first line "78a, 78b".

(5) The said subsection 161 (1) is further amended by inserting after "109" in the second line "112".

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

6.—(1) The *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

31a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be

Regulations

deemed to be a fluoridation system established under that Act.

Continuation
of fluoridation
of water
supply
in area

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(2) Section 113 of the said Act is repealed.

(3) Subsection 115 (2) of the said Act is amended by inserting after “and” in the third line “subject to section 115a”.

(4) The said Act is further amended by adding thereto the following section:

Day Care
Service Areas

115a.—(1) The Regional Council may, upon the request of one or more area municipalities, pass a by-law designating those municipalities as a Day Care Service Area and may pass such additional by-laws to alter the composition of the Day Care Service Area, including the elimination of any part, as may be necessary to comply with the requests of the area municipalities.

Levies for
Day Care
Service Areas

(2) The Regional Council in each year shall levy against the area municipalities situate within the Day Care Service Area a sum sufficient to meet the costs, as estimated by the Regional Council, of providing day care services in the Day Care Service Area and Part IX applies with necessary modifications to a levy made under this section as though it were a levy made by the Regional Council under subsection 121 (1).

(5) Subsection 163 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 35, is amended by inserting after “5” in the first line “78a, 78b”.

(6) The said subsection 163 (1) is further amended by,

(a) inserting after “106” in the first line “112”; and

(b) striking out “and 54” in the third line and inserting in lieu thereof “54 and 55”.

(7) The said Act is further amended by adding thereto the following section:

Centralized
communication
system

165a.—(1) The Regional Council may pass by-laws and enter into agreements to provide for the establishment and operation of a centralized communication system either alone

or in concert with the area municipalities and their local boards for the provision of emergency response services in the Regional Area.

(2) The area municipalities and their local boards may enter into agreements under subsection (1) with the Regional Council. Agreements

REGIONAL MUNICIPALITY OF PEEL

7.—(1) Section 70 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed.

(2) The said Act is amended by adding thereto the following section:

80a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*. Fluoridation
system
R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality. Non-
application

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act. Regulations

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection. Continuation
of fluori-
dation
of water
supply
in area

(3) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 41, is amended by inserting after "5" in the first line "78a, 78b".

(4) The said subsection 117 (1) is further amended by inserting after "109" in the second line "112".

REGIONAL MUNICIPALITY OF SUDBURY

8.—(1) The *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Fluoridation
system

R.S.O. 1980,
c. 171

25a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

Non-
application

(2) The *Fluoridation Act* does not apply to any area municipality.

Regulations

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

Continuation
of fluori-
dation
of water
supply
in area

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(2) The said Act is further amended by adding thereto the following section:

Trust fund
disbursement

33a. The trust fund, composed of undisbursed interest accumulated prior to the 1st day of November, 1984, on the trust accounts of residents of the Regional Municipality of Sudbury Homes for the Aged, is vested in the Regional Corporation for distribution of both the fund and interest accruing thereon by the Regional Council in its absolute discretion for the general benefit of the residents of the Regional Municipality of Sudbury Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

(3) Section 35 of the said Act is repealed.

(4) Subsection 103 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 48, is amended by inserting after "5" in the first line "78a, 78b".

(5) The said subsection 103 (1) is further amended by inserting after "106" in the first line "112".

REGIONAL MUNICIPALITY OF WATERLOO

9.—(1) Subsection 30 (2) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

Fluoridation system

R.S.O. 1980, c. 171

(3) The *Fluoridation Act* does not apply to any area municipality.

Non-application

(4) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

Regulations

(5) Notwithstanding that a by-law has not been passed under subsection (2), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation of fluoridation of water supply in area

(2) Section 105 of the said Act is repealed.

(3) Subsection 151 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 54, is amended by inserting after "5" in the first line "78a, 78b".

(4) The said subsection 151 (1) is further amended by inserting after "110" in the first line "112".

REGIONAL MUNICIPALITY OF YORK

10.—(1) Subsection 31 (2) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

Fluoridation system

R.S.O. 1980, c. 171

(3) The *Fluoridation Act* does not apply to any area municipality.

Non-application

(4) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

Regulations

(5) Notwithstanding that a by-law has not been passed under subsection (2), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation of fluoridation of water supply in area

(2) Section 107 of the said Act is repealed.

(3) Subsection 153 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 59, is amended by inserting after "5" in the first line "78a, 78b".

(4) The said subsection 153 (1) is further amended by inserting after "110" in the first line "112".

Commence-
ment

11.—(1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Subsections 1 (3), 2 (3), 3 (4), 4 (2) and (5), 5 (4), 6 (5), 7 (3), 8 (4), 9 (3) and 10 (3) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12. The short title of this Act is the *Regional Municipalities Amendment Act, 1987*.

Bill 207

An Act to amend the District Municipality of Muskoka Act

The Hon. B. Grandmaître
Minister of Municipal Affairs

1st Reading February 11th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

Section 51 of the *District Municipality of Muskoka Act* now reads as follows:

51. No area municipality shall exercise any power with respect to the preparation and lodging of official plans under Part III of the Planning Act, 1983.

Under the Act, the responsibility for the preparation and adoption of an official plan for the District Area is vested in the District Council. The effect of the re-enactment of section 51 is to vest in each area municipality responsibility for its own official plan; those parts of the District Area official plan that now apply specifically to an area municipality will become that municipality's official plan.

The District Area official plan, except for the amendments thereto that apply specifically to an area municipality, continues as the official plan for the Area. Amendments to the District Area official plan in process when the re-enacted section 51 comes into force will continue to be dealt with, and when approved, will be allocated, if appropriate, to one or more of the area municipalities' official plans.

Bill 207

1987

**An Act to amend the
District Municipality of Muskoka Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 51 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 5, section 12, is repealed and the following substituted therefor:

51.—(1) In this section, “District Plan” means the official plan of the District Area. Definition

(2) Amendments numbered 34, 41, 55 and 56 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Town of Bracebridge, become the official plan of the Town of Bracebridge. Official plan,
Town of
Bracebridge

(3) Amendment numbered 15 to the District Plan is hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Township of Georgian Bay, become the official plan of the Township of Georgian Bay. Official plan,
Township of
Georgian
Bay

(4) Amendment numbered 13 as approved and amendments numbered 10, 18, 22, 36 and 54 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Town of Gravenhurst, become the official plan of the Town of Gravenhurst. Official plan,
Town of
Gravenhurst

(5) Amendments numbered 1, 9, 14, 21, 23, 24, 25, 26, 30, 32, 33, 39, 42, 44 and 45 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Town of Huntsville, become the official plan of the Town of Huntsville. Official plan,
Town of
Huntsville

Official plan,
Township of
Lake of Bays

(6) Amendments numbered 3, 11, 23 and 28 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Township of Lake of Bays, become the official plan of the Township of Lake of Bays.

Official plan,
Township of
Muskoka
Lakes

(7) Amendments numbered 2, 12, 19 and 40 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Township of Muskoka Lakes, become the official plan of the Township of Muskoka Lakes.

District
Plan

(8) Amendments numbered 27 and 47 to the District Plan continue to form part of the District Plan while also becoming part of the official plans of each of the area municipalities as provided for in subsections (2) to (7).

Processing of
District Plan
amendments

(9) Where an amendment to the District Plan has been submitted to the Minister for approval and the amendment or a part thereof is not approved before the coming into force of this section, the Minister or the Municipal Board, on a referral thereto, may, without any further requirement, continue to deal with the amendment or the part thereof under the provisions of the *Planning Act, 1983* and in so doing, may allocate the amendment or the part thereof to form part of such official plan as is considered appropriate.

1983, c. 1

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *District Municipality of Muskoka Amendment Act, 1987*.

Bill 208

An Act to amend the Planning Act, 1983

The Hon. B. Grandmaître
Minister of Municipal Affairs

<i>1st Reading</i>	February 11th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

SECTIONS 1 and 2. The addition of the proposed subsection 4 (2a) and the amendment to subsection 5 (2) of the Act will ensure that when the Minister's consent-granting authority has been delegated, the same provisions will apply to the exercise of that authority as apply to municipal councils and delegates thereof.

SECTION 3.—Subsection 1. Subsections 17 (14) to (17) of the Act now read as follows:

(14) The parties to a referral are the person or other body, if any, that requested the referral, the municipality and any person or other body added as a party by the Municipal Board.

(15) The Municipal Board may add as a party to the referral any person, including the Minister or other body who applies to the Board to be added as a party.

(16) Despite the fact that a person is not a party to the referral, the Municipal Board may permit the person to make representations at the hearing.

(17) On a referral to the Municipal Board, the Board shall hold a hearing of which notice shall be given to the parties to the referral, and to such other persons or bodies as the Board considers appropriate.

As re-enacted, subsection 17 (14) will permit the Municipal Board to, in effect, establish the parties on a reference to the Board in respect of an official plan.

Subsection 2. Subsection 17 (19) of the Act provides that where an official plan is before the Municipal Board on a reference, the Minister of Municipal Affairs may advise the Board by a notice in writing that a matter of provincial interest is adversely affected by the plan or part thereof, and thereupon the decision of the Board on that part of the plan identified in the notice is not binding unless confirmed by the Lieutenant Governor in Council. The amendment will permit the Minister to give the notice whenever a provincial interest is affected, whether adversely or beneficially.

SECTION 4. Subsection 20 (1) of the Act now reads as follows:

(1) Two certified copies of the official plan shall be lodged in the office of the Minister and one certified copy in the office of the clerk of each municipality specified by the Minister.

The requirement that copies of the plan be lodged in the office of the Minister has been found to be unnecessary and is deleted.

SECTIONS 5, 6 and 7. These amendments are to the same effect as that set out in subsection 3 (2) of the Bill and are in respect of amendments to an official plan.

SECTION 8.—Subsection 1. Subsection 24 (2) of the Act permits the council of a municipality that has adopted an amendment to an official plan to pass a by-law that doesn't conform with the plan but will conform if the amendment is approved. As re-enacted, the subsection takes into account the fact that in some instances it is the upper-tier municipal council that is responsible for the official plan that applies to a lower-tier municipality.

Subsection 2. Subsection 24 (4) of the Act provides that where a zoning by-law is not appealed or if appealed the appeal is dismissed or if the by-law is amended as directed on the appeal, then the by-law is deemed to be in conformity with an official plan that is in effect in the municipality. Clause 24 (4) (b), as re-enacted, recognizes that under subsection 34 (27) the Municipal Board on an appeal may itself amend the by-law rather than direct the council of the municipality to do so.

SECTION 9. Subsections 28 (6) and (7) of the Act confer certain powers on a municipality for the purpose of carrying out a community improvement plan, the exercise of which could contravene the restrictions on the granting by a municipal council of assistance to business or commercial enterprises set out in subsection 112 (1) of the *Municipal Act*. Subsection 112 (2) of that Act creates an exception where the council is exercising any of its powers or authority under subsection 28 (6) or (7) of the *Planning Act, 1983* with the approval of the Minister of Municipal Affairs. The proposed new subsection 28 (7a) of the *Planning Act, 1983* explicitly authorizes the Minister to approve the exercise of such power in order that the exception may apply.

SECTION 10.—Subsection 1. Subsection 33 (7) of the Act enables the council of a municipality to attach conditions to a demolition permit for residential property; the new subsection (7a) permits registration of notice of any conditions imposed against the land to which the permit applies.

Subsection 2. Subsection 33 (10) of the Act now permits any person who has obtained a demolition permit under subsection 33 (6) to apply to council for relief from the conditions attached to the demolition permit; under subsection (10), as re-enacted, such an application may be made by a person who has subsequently become the owner of the permit.

New subsection (10a) permits council to extend the time for making an application for relief under subsection (10).

SECTION 11.—Subsection 1. Subsections 34 (12) and (13) of the Act set out certain requirements to be met by a municipal council before passing a zoning by-law and now read as follows:

(12) Before passing a by-law under this section, the council shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in the manner and to the persons prescribed, for the purpose of informing the public in respect of the proposed by-law.

(13) The meeting mentioned in subsection (12) shall be held not sooner than thirty days after the requirements for the giving of notice have been complied with and shall be open to the public, and any person who attends the meeting shall be afforded an opportunity to make representation in respect of the proposed by-law.

The re-enactment of subsection (12) makes it clear those requirements do not apply when the by-law is passed on the direction of the Municipal Board following an appeal to it and is rephrased to indicate more accurately the type of information that is to be made available to the public.

The re-enactment of subsection (13) reduces from thirty to twenty days the minimum period of time that must elapse between the giving of the notice and the holding of the meeting.

Subsection 2. The re-enactment of subsection 34 (15) of the Act requires council to forward the information to boards, commissions and other agencies that may have an interest in the matter not less than twenty days before passing the by-law.

New subsection (15a) permits such a board, etc., to require up to an additional ten days to submit comments on the zoning proposal.

Subsection 3. The re-enactment of subsections 34 (17) and (18) and the enactment of new subsection 34 (18a) vary the time within which an appeal of a zoning by-law may be brought. The appeal period will commence to run from the day notice of the passing of the by-law is given rather than from the day the by-law is passed and the effect is to shorten the appeal period when a municipality is prompt in giving notice of the passing of the by-law.

Subsection 4. The re-enactment of subsection 34 (22) of the Act is to the same effect as that set out in subsection 3 (1) of the Bill in relation to the power of the Municipal Board to establish the parties on an appeal to the Board in respect of a zoning by-law.

Subsection 5. The amendment is similar in intent to that set out in subsection 3 (2) of the Bill and refers to a matter of provincial interest affected by a zoning by-law.

SECTION 12. Subsection 35 (2) of the Act provides that a zoning by-law of a local municipality shall not include a "holding provision" unless its official plan contains provisions relating to that concept. As re-enacted, the subsection recognizes that in some instances it is the upper-tier municipal council that is responsible for the official plan that applies to a lower-tier municipality.

SECTION 13. The re-enactment of subsection 36 (2) of the Act is to the same intent as the amendment set out in section 12 of the Bill and refers to increased density provisions in a zoning by-law.

SECTION 14. The paragraph added to clause 40 (8) (a) of the Act empowers an upper-tier municipality to require matters relating to drainage to be provided to its satisfaction in connection with site plan control approvals.

SECTION 15. The re-enactment of subsection 41 (4) of the Act is to the same effect as that set out in sections 12 and 13 of the Bill and refers to a requirement as a condition of development or redevelopment of land that land be conveyed to a municipality for park purposes at a rate of not more than one hectare for each 300 dwelling units proposed.

SECTION 16. These amendments make consistent the appeal procedures on minor variance decisions under section 44 with those that apply to consent decisions under section 52.

SECTION 17. The amendment is similar to that set out in subsections 3 (2) and 11 (5) of the Bill and refers to a matter of provincial interest that is affected by a proposed revocation or amendment of a zoning or subdivision control order made by the Minister under subsection 46 (1) of the Act.

SECTION 18. The amendment is complementary to those set out in sections 1 and 2 of the Bill to ensure that the same provisions will apply in the exercise of the Minister's delegated consent-granting authority.

SECTION 19.—Subsection 1. Subsection 52 (7) of the Act describes who is entitled to appeal a decision on an application for a consent and is set out below, showing underlined the words to be added by the amendment:

(7) The applicant, the Minister and every agency or other person to whom notice of the decision was sent either as required under subsection (5) or otherwise, including notice sent in accordance with a condition of delegation of the authority to grant consents may within thirty days of the making of the decision appeal to the Municipal Board against the decision by filing with the clerk of the municipality, the council of which made the decision, a notice of appeal setting out written reasons in support of the appeal and accompanied by payment to the clerk of the fee prescribed by the Board under the Ontario Municipal Board Act.

The amendment is intended to make it clear that whoever is sent a notice of the decision is entitled to appeal it, including a body who had delegated the authority to grant the consent.

Subsection 2. Subsection 52 (20) of the Act provides that where conditions imposed on the granting of a consent are not fulfilled within one year of the granting of the consent, the application for the consent shall be deemed to be refused; the words added by the amendment provide that where there has been an appeal or reference to the Municipal

Board, the one-year period does not commence to run until the date of the Board's order on the appeal or referral.

SECTION 20. Subsection 56 (1) of the Act permits the validation by order of the Minister of conveyances of land made before the 19th day of March, 1973, that contravened the subdivision control provisions of the Act. The re-enactment permits such validation whether the contravention occurred before or after the 19th day of March, 1973.

SECTION 21. Under the Act, planning boards may charge fees only when planning functions have been assigned to them by the Minister. The re-enactment of subsections 68 (1) and (2) will permit planning boards to charge fees in respect of any of their planning functions.

SECTION 22. Complementary to section 21 of the Bill.

Bill 208

1987

An Act to amend the Planning Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Planning Act, 1983*, being chapter 1, is amended by adding thereto the following subsection:

(2a) Despite subsections (1) and (2), where the Minister has delegated the authority of the Minister for the granting of consents under section 52, the provisions of subsections 52 (2) to (9) and (15) to (22) apply, with necessary modifications and the provisions of subsections 52 (10) to (14) do not apply, in the exercise of that authority.

Where
authority to
grant
consents
delegated

2. Subsection 5 (2) of the said Act is amended by striking out “and the provisions of subsections 52 (2) to (9) and (15) to (22) apply with necessary modifications in the exercise of that authority” in the seventh, eighth and ninth lines.

3.—(1) Subsections 17 (14), (15), (16) and (17) of the said Act are repealed and the following substituted therefor:

(14) On a referral to the Municipal Board, the Board shall hold a hearing, of which notice shall be given to such persons or bodies and in such manner as the Board may determine.

Hearing
and notice
thereof

(2) Subsection 17 (19) of the said Act is amended by striking out “adversely” in the fourth line and in the ninth line.

4. Subsection 20 (1) of the said Act is repealed and the following substituted therefor:

(1) A certified copy of the official plan shall be lodged in the office of the clerk of each municipality to which the plan, or any part of the plan, applies.

Lodging
of plan

5. Subsection 21 (2) of the said Act is amended by striking out “adversely” in the second line.

6. Subsection 22 (5) of the said Act is amended by striking out "adversely" in the fourth line and in the ninth line.

7. Subsection 23 (1) of the said Act is amended by striking out "adversely" in the third line.

8.—(1) Subsection 24 (2) of the said Act is repealed and the following substituted therefor:

Validity of
by-laws
conforming
with
amendments
to plans

(2) Where a council has adopted an amendment to an official plan, the council of any municipality to which the plan or any part of the plan applies may, before the Minister has approved the amendment, pass a by-law that does not conform with the official plan but will conform therewith if the amendment is approved, and the by-law shall be conclusively deemed to have conformed with the official plan on and from the day it was passed if the Minister approves the amendment to the official plan.

(2) Clause 24 (4) (b) of the said Act is repealed and the following substituted therefor:

(b) an appeal is taken and the appeal is dismissed or the by-law is amended by the Municipal Board or as directed by the Municipal Board.

9. Section 28 of the said Act is amended by adding thereto the following subsection:

Approval
of Minister

(7a) Where the council of the municipality proposes to exercise any power or authority under subsection (6) or (7) that would be prohibited under subsection 112 (1) of the *Municipal Act*, the Minister may approve the exercise of such power or authority in order that the exception provided for in subsection 112 (2) of the *Municipal Act* will apply.

R.S.O. 1980,
c. 302

10.—(1) Section 33 of the said Act is amended by adding thereto the following subsection:

Registration
of notice

(7a) Notice of any condition imposed under subsection (7) may be registered in the proper land registry office against the land to which it applies.

(2) Subsection 33 (10) of the said Act is repealed and the following substituted therefor:

Application
to council for
relief from
conditions of
demolition
permit

(10) Where a condition has been imposed under subsection (7) and the holder of the demolition permit considers that it is not possible to complete the new building within the time specified in the permit or where the holder of the permit is of

the opinion that the construction of the new building has become not feasible on economic or other grounds, he or she may apply to the council of the municipality for relief from the conditions on which the permit was issued, by sending notice of application by registered mail to the clerk of the municipality not less than sixty days before the time specified in the permit for the completion of the new building and where the council under subsection (11) extends the time for completion of the new building, application may similarly be made for relief by sending notice of application not less than sixty days before the expiry of the extended completion time.

(10a) Despite subsection (10), the council may, at any time, extend the date specified in that subsection for the making of an application for relief from the conditions on which the permit was issued. Extension of time

11.—(1) Subsections 34 (12) and (13) of the said Act are repealed and the following substituted therefor:

(12) Before passing a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection (11) or (27), the council shall ensure that sufficient information is made available to enable the public to understand generally the zoning proposal that is being considered by the council, and for this purpose shall hold at least one public meeting, notice of which shall be given in the manner and to the persons prescribed. Information and public meeting

(13) The meeting mentioned in subsection (12) shall be held not sooner than twenty days after the requirements for the giving of notice have been complied with and shall be open to the public, and any person who attends the meeting shall be afforded an opportunity to make representation in respect of the zoning proposal. Time for meeting, etc.

(2) Subsection 34 (15) of the said Act is repealed and the following substituted therefor:

(15) The council shall forward to such boards, commissions, authorities or other agencies as the council considers may have an interest in the zoning proposal sufficient information to enable them to understand it generally and such information shall be forwarded not less than twenty days before passing a by-law implementing the proposal. Information to agencies, etc.

(15a) Where a board, commission, authority or other agency receives information under subsection (15), such board, commission, authority or agency may in writing notify the clerk of the municipality at any time before the expiry of Extension of time for submission of comments

the twenty-day period mentioned in subsection (15) that a further period of time is required to submit comments in respect of the zoning proposal and where notice is so given, a by-law implementing the proposal may not be passed until either the comments have been received by the council or thirty days have elapsed from the date that the information was forwarded under subsection (15), whichever first occurs.

(3) Subsections 34 (17) and (18) of the said Act are repealed and the following substituted therefor:

Notice of
passing of
by-law

(17) Where the council passes a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection (11) or (27), the clerk of the municipality shall give written notice of the passing of the by-law in the manner and in the form and to the persons and agencies prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (18).

Appeal to
O.M.B.

(18) Any person, including the Minister or agency, may, not later than the twentieth day after the day that the giving of written notice as required by subsection (17) is completed, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

When giving
of notice
deemed
completed

(18a) For the purposes of subsection (18), the giving of written notice shall be deemed to be completed,

- (a) where notice is given by publication in a newspaper, on the day that such publication occurs;
- (b) where notice is given by personal service, on the day that the serving of all required notices is completed; and
- (c) where notice is given by mail, on the day that the mailing of all required notices is completed.

(4) Subsections 34 (22), (23), (24) and (25) of the said Act are repealed and the following substituted therefor:

Hearing and
notice
thereof

(22) On an appeal to the Municipal Board, the Board shall hold a hearing of which notice shall be given to such persons or bodies and in such manner as the Board may determine.

(5) Subsection 34 (28) of the said Act is amended by striking out "adversely" in the third line and in the eighth line.

12. Subsection 35 (2) of the said Act is repealed and the following substituted therefor:

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the use of the holding symbol mentioned in subsection (1). Condition

13. Subsection 36 (2) of the said Act is repealed and the following substituted therefor:

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the authorization of increases in height and density of development. Condition

14. Clause 40 (8) (a) of the said Act is amended by adding thereto the following paragraph:

4. Where the land abuts a highway under the jurisdiction of the county or regional, metropolitan or district municipality, grading or alteration in elevation or contour of the land in relation to the elevation of the highway and provision for the disposal of storm and surface water from the land.

15. Subsection 41 (4) of the said Act is repealed and the following substituted therefor:

(4) The alternative requirement authorized by subsection (3) may not be provided for in a by-law passed under this section unless there is an official plan in effect in the local municipality that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement. Official
plan
requirement

16.—(1) Subsection 44 (10) of the said Act is amended by striking out “by mail” in the second line.

(2) Subsection 44 (12) of the said Act is amended by striking out “serving personally on or sending by registered mail to” in the fourth and fifth lines and inserting in lieu thereof “filing with”.

(3) Subsection 44 (13) of the said Act is amended by striking out “served or sent to him” in the second line and inserting in lieu thereof “filed”.

17. Subsection 46 (15) of the said Act is amended by striking out "adversely" in the fourth line.

18. Subsection 49 (1) of the said Act is amended by striking out "section 52 to the Minister or to a council, as the case may be, includes a delegate thereof as provided for in sections 4, 5 and 53" in the twenty-ninth, thirtieth and thirty-first lines and inserting in lieu thereof "subsections 52 (1), (2), (17), (18), (19), (21) and (22) to the Minister includes a delegate of the Minister, as provided for in sections 4 and 54, and a reference herein and in section 52 to a council includes a delegate of a council, as provided for in sections 5 and 53".

19.—(1) Subsection 52 (7) of the said Act is amended by inserting after "sent" in the second line "either as required under subsection (5) or otherwise, including notice sent in accordance with a condition of delegation of the authority to grant consents".

(2) Subsection 52 (20) of the said Act is amended by adding at the end thereof "but where there is an appeal under subsection (7) or (8), or a referral under subsection (13) or (14), the application for consent shall not be deemed to be refused for failure to fulfill the conditions until the expiry of a period of one year from the date of the order of the Municipal Board issued in respect of the appeal or referral".

20. Subsection 56 (1) of the said Act is repealed and the following substituted therefor:

Effect of
contravention
of s. 49, etc.

(1) The Minister may by order in respect of land described in the order provide that the contravention of section 49 or a predecessor thereof or of a by-law passed under a predecessor of section 49 or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land, provided that the order does not affect the rights acquired by any person from a judgment or order of any court, given or made on or before the day on which the order is made by the Minister.

21. Subsections 68 (1) and (2) of the said Act are repealed and the following substituted therefor:

Tariff
of fees

(1) The council of a municipality, by by-law, and a planning board, by resolution, may prescribe a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anti-

pated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality or to the planning board in respect of the processing of each type of application provided for in the tariff.

(2) Notwithstanding that a tariff of fees is prescribed under subsection (1), the council of a municipality, a planning board, a committee of adjustment or a land division committee in processing an application may reduce the amount of or waive the requirement for the payment of a fee in respect of the application where the council, planning board or committee is satisfied that it would be unreasonable to require payment in accordance with the tariff.

Reduction
or waiver
of fees

22. Clause 69 (d) of the said Act is repealed.

23.—(1) This Act, except sections 1, 2 and 11, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Sections 1, 2 and 11 come into force on the 1st day of May, 1987.

Idem

24. The short title of this Act is the *Planning Amendment Act, 1987*.

Short title

Bill 209

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. B. Grandmaître
Minister of Municipal Affairs

1st Reading February 11th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The proposed amendment makes the clerk of each area municipality responsible for certifying and forwarding to the clerk of the Metropolitan Council the name of each person from that area municipality who has been elected or appointed to the Metropolitan Council.

SECTION 2. Subsection 21 (3) of the Act is repealed as it is now dealt with under the *Municipal Conflict of Interest Act, 1983*.

SECTION 3. The proposed amendment vests in the Metropolitan Corporation the title to the original roads in the metropolitan road system established by by-law of the Metropolitan Council in 1953.

SECTION 4. The proposed amendment corrects an incorrect cross-reference to the *Education Act*.

SECTIONS 5, 6, 7 and 8. These proposed amendments relate to the powers and duties of the Metropolitan Toronto Library Board. The *Public Libraries Act, 1984* repealed the former *Public Libraries Act* and the powers of the Metropolitan Toronto Library Board were not included in the new Act.

SECTION 9. The proposed section would transfer certain provincially-owned lands in the Town of Vaughan and the City of Brampton to the City of Etobicoke to accommodate the re-alignment of a road.

SECTION 10. This amendment repeals a provision made redundant by the repeal of the *Juvenile Delinquents Act (Canada)*.

SECTION 11. The proposed amendment provides that fines and penalties for contraventions of area municipal by-laws belong to that municipality if the prosecution has been initiated by area officials.

SECTION 12. The proposed amendments would remove the ten-year limitation on the right to sell refreshments and liquor in metropolitan parks.

SECTION 13. The proposed amendment to subsection 245 (1) would make section 112 of the *Municipal Act* (which prohibit councils from assisting business ventures) applicable to the Metropolitan Council.

The proposed subsection 245 (6a) would give the Metropolitan Council the power to appoint regional fire co-ordinators.

Bill 209

1987

An Act to amend the Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 (3) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) Where a person is elected or appointed to represent an area municipality as a member of the Metropolitan Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Metropolitan Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Metropolitan Corporation has received such a certificate in respect of that person.

Certificate of
qualification

2. Subsection 21 (3) of the said Act is repealed.

3. Section 70 of the said Act is amended by adding thereto the following subsection:

(4a) The soil and freehold of all roads designated to be assumed as Metropolitan roads in a by-law passed under subsection (1) and approved by the Lieutenant Governor in Council under subsection (4) are deemed to have vested in the Metropolitan Corporation on the 1st day of January, 1954.

Deemed
vesting
of
certain
roads

4. Subclause 127 (1) (g) (v) of the said Act is amended by striking out "paragraph 33" in the sixth line and inserting in lieu thereof "paragraph 34".

5. Section 147 of the said Act is amended by adding thereto the following clause:

- (c) "Minister" means the Minister of Citizenship and Culture.

6.—(1) Subsection 148 (1) of the said Act is amended by striking out "The regional library board, which is a corporation, under the name of" in the first and second lines and inserting in lieu thereof "The Corporation known as the".

(2) Subsection 148 (4) of the said Act is repealed.

(3) Subsection 148 (7) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 57, section 44, is repealed.

7. Section 149 of the said Act is amended by adding thereto the following subsection:

J. Ross
Robertson
Collection

(9) The Library Board has, and since the 23rd day of August, 1977 shall be deemed to have had, the power to maintain the personal property known as the J. Ross Robertson Collection in such building of the Library Board as the Library Board considers appropriate.

8. Part IX of the said Act is amended by adding thereto the following sections:

Primary
functions
of
Library
Board

149a.—(1) The primary functions of the Library Board shall be, in co-operation with the area and other library boards,

- (a) to provide a reference and research service that reflects the metropolitan area's unique needs; and
- (b) to supplement the public services provided by the area boards,

and for the purposes of clause (b), and for the purposes of provision by the Library Board of library resources and services to the Ontario library community, the Library Board shall be deemed to be a special library service board within the meaning of section 40 of the *Public Libraries Act, 1984*, but subsection 42 (2) of that Act shall not apply to the Library Board.

1984, c. 57

Grants

(2) The Minister may make grants to the Library Board under subsection 40 (1) of the *Public Libraries Act, 1984* for the purposes of the function described in clauses (1) (a) and (b) and for any other resources and services specified by the Minister to be provided by the Library Board in its capacity as a special library service board.

(3) The Library Board,

Powers and
duties of
Library
Board

- (a) shall maintain a comprehensive collection of books, periodicals, films and other material for the purposes of clause (1) (a);
- (b) may operate a book-information service and an inter-library book-loan service for its own collections and those of the area boards;
- (c) may operate a circulating service for any part of its collections; and
- (d) may provide such other services as it considers necessary for a comprehensive and efficient library service within the Metropolitan Area.

149b.—(1) Clauses 10 (1) (a), (b) and (d), sections 11, 12, 13, 15, 16, 17 and 18, clauses 20 (b) to (h), sections 22, 23 and 28, subsection 35 (1) and section 37 of the *Public Libraries Act, 1984* apply with necessary modifications to the Library Board. Application
of
1984, c. 57

(2) For the purposes of clause 10 (1) (d) of the *Public Libraries Act, 1984*, any employee of any of the appointing bodies referred to in subsection 148 (1) shall be deemed to be an employee of the Metropolitan Corporation. Idem

(3) For the purposes of clause 13 (d) of the *Public Libraries Act, 1984*, the reference therein to clause 10 (1) (c) shall be deemed to be a reference to the membership and residential requirements of clauses 148 (1) (a), (c), (d) and (e) of this Act. Idem

(4) For the purposes of subsection 22 (1) of the *Public Libraries Act, 1984*, the Metropolitan Council shall be deemed to be the sole appointing council. Idem

9. Section 150 of the said Act is amended by adding thereto the following subsection:

(2a) On the 1st day of January, 1987,

Portions of
Brampton
and
Vaughan
annexed to
Etobicoke

- (a) that portion of the City of Brampton described as follows is annexed to The Corporation of the City of Etobicoke:

Parts 1, 2, 3, 4, 5 and 6 on a plan deposited in the Land Registry Office for the Registry Division of Peel (No. 43) as Plan 43R-10527; and

- (b) that portion of the Town of Vaughan described as follows is annexed to The Corporation of the City of Etobicoke:

Parts 1, 2 and 3 on a plan deposited in the Land Registry Office for the Registry Division of York Region (No. 65) as 65R-4820, Parts 1, 2, 3, 4, 5 and 6 on a plan deposited in the said Land Registry Office as 65R-4821, Parts 1 and 2 on a plan deposited in the said Land Registry Office as 65R-5681 and Parts 1, 2, 3, 4, 5, 6, 7, 8 and 11 on a plan deposited in the said Land Registry Office as 65R-8430.

10. Section 166 of the said Act is repealed.

11. Section 186 of the said Act is repealed and the following substituted therefor:

Fines and
penalties

186.—(1) Subject to subsection (2), the fines and penalties imposed for a contravention of a by-law of an area municipality where its employees or agents initiate a prosecution in accordance with the *Provincial Offences Act* belong to that area municipality.

R.S.O. 1980,
c. 400

Idem

(2) The fines and penalties that but for this Act would otherwise belong to an area municipality belong to the Metropolitan Corporation.

12.—(1) Subsection 206 (2) of the said Act is repealed and the following substituted therefor:

Sale of
liquor in
parks

R.S.O. 1980,
cc. 80, 244

(2) In addition to the powers that may be exercised under subsection (1), the Metropolitan Council has power, subject to the *Community Recreation Centres Act*, to let, for such period as it considers advisable, the right to sell refreshments and, subject to the *Liquor Licence Act* and the regulations made thereunder, spirituous, fermented or intoxicating liquors within the metropolitan parks under such regulations as the Metropolitan Council may prescribe.

(2) Clause 206 (5) (a) of the said Act is repealed and the following substituted therefor:

- (a) exercise all or any of the powers conferred on it under subsections (1) and (2) in respect of such lands.

13.—(1) Subsection 245 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 18, section 17, is amended by inserting after “106” in the second line “112”.

(2) Section 245 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 18, section 17, is further amended by adding thereto the following subsection:

(6a) The Metropolitan Corporation shall appoint a metropolitan fire co-ordinator who shall be responsible for the establishment of an emergency fire service plan and program for the Metropolitan Area, and the Metropolitan Corporation is authorized to expend such sums as it considers necessary to implement the plan and program.

Metropolitan
fire
co-ordinator

14.—(1) This Act, except sections 9 and 11, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 9 shall be deemed to have come into force on the 1st day of January, 1987.

Idem

(3) Section 11 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

15. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1987*.

Short title

Bill 210

An Act to provide an Incentive to Ontario Employees of Small and Medium Sized Corporations to Purchase Newly Issued Shares of their Employer Corporation

The Hon. R. Nixon

Minister of Revenue

<i>1st Reading</i>	February 12th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

The purpose of the Bill is to implement the proposal contained in the Treasurer's Budget of May 13th, 1986, to establish an incentive program to encourage employees of small and medium sized corporations to purchase newly-issued shares of their employer. The principal features of the Bill are as follows:

1. Corporations incorporated in Canada which pay at least 25 per cent of their salaries and wages in Ontario and whose gross revenue or total assets together with the gross revenue or total assets of associated corporations, does not exceed \$50 million in the previous taxation year may apply to register an employee share ownership plan.
2. Corporations otherwise eligible will continue to be eligible until their gross revenue and their total assets, together with the total assets and gross revenue of associated corporations, both exceed \$75 million.
3. The mandatory provisions to be contained in such a plan include the offering of newly-issued voting shares to all eligible employees, a method of valuation that applies to all common shares of the employer corporation, the provision of terms for the purchase, sale, transfer or redemption of those shares, the provision of financial information and advice on the *Securities Act* to employees, and the appointment of an independent administrator for the plan who will retain for two years the shares purchased by the employee and will retain out of the proceeds of any sale in that two-year period amounts to be repaid to the Treasurer with respect to grants previously paid to the employee.
4. An annual grant of the lesser of \$300 or 15 per cent of the cost of the shares purchased is available to eligible employees.
5. Full-time or part-time employees who are Ontario residents and who have worked for their employer for at least six months may apply for the grant after they purchase and fully pay for the newly-issued shares unless the employee already owns or the employee is related to any person who already owns 10 per cent or more of any class of shares in the employer corporation.
6. The purchase of the shares must result in new capital being paid to the employer corporation and no grant will be paid where an employee uses the proceeds from the sale of the previously-owned shares to purchase new shares.
7. An eligible corporation may apply for a grant equal to the lesser of \$10,000 and one-third of the prescribed expenditures incurred by the corporation in establishing an employee share ownership plan.
8. An employee group may apply for a grant equal to the lesser of \$5,000 and one-half of the prescribed expenditures incurred by the employees in negotiating, evaluating and implementing the employee share ownership plan.
9. Improperly paid grants may be recovered by the Minister through court action.
10. Administrative provisions relating to audits and requests for information, offences and the keeping of adequate records are similar to those contained in the *Corporations Tax Act*; provisions relating to revocations of employee share ownership plans, the filing of objections and applications to the Supreme Court are similar to those contained in the *Small Business Development Corporations Act*.

Bill 210

1987

**An Act to provide an Incentive to Ontario Employees
of Small and Medium Sized Corporations
to Purchase Newly Issued Shares
of their Employer Corporation**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

1. In this Act,

Definitions

“administrator” means an administrator under an escrow
agreement;

“associated corporations” means corporations that are associ-
ated corporations under section 256 of the *Income Tax Act* R.S.C. 1952,
(Canada) or corporations that would be associated corpora- c. 148
tions under that section if the corporations had been incor-
porated in Canada;

“eligible corporation” means a corporation to which a certifi-
cate of eligibility has been issued under section 7;

“eligible employee” means an eligible employee referred to in
section 11;

“employee” means an individual who is employed by an eligi-
ble corporation on a continuing basis for at least fourteen
hours per week;

“employee group” means those employees who have been
certified under subsection 4 (4);

“employee share” means a share issued by an eligible cor-
poration that includes the right,

- (a) to vote at all meetings of shareholders, and
- (b) to receive the remaining property of the corporation
upon dissolution;

“employee share ownership plan” means an arrangement whereby eligible employees may acquire employee shares in an eligible corporation;

“employee share purchase agreement” means an agreement entered into by an eligible corporation and its employees for the purchase of employee shares by eligible employees containing the requirements set out in subsection 2 (1);

“escrow agreement” means an agreement entered into by an eligible corporation, an administrator and an eligible employee containing the provisions required under subsection 2 (2);

“Minister” means the Minister of Revenue;

“person” includes an employee, an employee group, a corporation and an administrator;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act;

“specified shareholder of the eligible corporation” means a person who is a specified shareholder of the corporation within the meaning of subsection 248 (1) of the *Income Tax Act* (Canada) for the purposes of that Act and any reference to a taxpayer in the definition under that Act shall be read as referring to an employee under this Act;

“taxation year”, in respect of a corporation, means a taxation year of the corporation for the purposes of the *Income Tax Act* (Canada), whether or not the corporation is subject to tax under that Act or is resident in Canada for the purposes of that Act.

R.S.C. 1952,
c. 148

Provisions
of employee
share
purchase
agreement

2.—(1) An employee share purchase agreement shall contain, in addition to any other terms and conditions that are prescribed or that are agreed to by the parties, the following provisions:

1. The employee shares to be purchased in accordance with the agreement shall be offered for purchase to all eligible employees.
2. A method of valuing such employee shares shall be described which shall apply to all common shares and employee shares issued by the eligible corporation.

3. A subscription price for the employee shares shall be specified and shall comply with the method of valuing the shares.
4. The terms and conditions for the purchase, sale, redemption and transfer, as applicable, of the employee shares shall be specified.
5. The employee shares shall be issued to, and be recorded on the share register in the name of, the eligible employee to be held in escrow by the administrator under the escrow agreement.
6. The eligible corporation shall provide to the eligible employees all financial information necessary to fully inform such employees in respect of the purchase, sale, transfer or redemption of employee shares.
7. The eligible corporation shall issue to the administrator an investment confirmation certificate in the prescribed form in respect of the purchase of employee shares.
8. The eligible corporation shall comply with all the provisions of the *Securities Act*, including all notice provisions applicable to the issuance, sale or transfer of shares.
9. The eligible corporation shall advise the eligible employees of the provisions of the *Securities Act* applying to the sale or transfer of shares and applying to insider trading.

R.S.O. 1980,
c. 466

(2) An escrow agreement shall contain, in addition to any other terms and conditions that are prescribed or that are agreed to by the parties, the following provisions:

Provisions
of escrow
agreement

1. All employee shares purchased by an eligible employee shall be held in escrow by the administrator for a period of two years from the date of purchase, or until sold, whichever is the earlier.
2. The administrator shall be a person who is independent of and is not subject to the direction of the eligible corporation or of any eligible employee.
3. The administrator shall deliver to the eligible employee the investment confirmation certificate

issued by the eligible corporation in respect of the employee shares.

4. The administrator shall maintain records of employee shares purchased, sold, transferred or redeemed, in a form acceptable to the Minister and provide to each eligible employee a report of his or her employee shares purchased, sold, transferred or redeemed.
5. All proceeds receivable by an eligible employee on the sale, transfer or redemption of the employee shares held in escrow shall be paid to the administrator.
6. The administrator shall withhold from proceeds received on a sale, transfer or redemption of employee shares paid under paragraph 5 an amount equal to lesser of the grant paid under section 12 and the amount determined by prescribed formula, and shall remit such amount to the Treasurer of Ontario.
7. The administrator shall file an annual return with the Minister in the manner, at the time and in the form prescribed.

Eligibility
to register
employee
share
ownership
plan

3.—(1) No corporation is eligible to register an employee share ownership plan under this Act unless,

- (a) the corporation is incorporated in Canada;
- (b) the aggregate of all wages and salaries paid in the last taxation year of the corporation that ends before the date of application under subsection 5 (1) to employees of permanent establishments of the corporation in Ontario for the purposes of the *Corporations Tax Act* is not less than 25 per cent of all wages and salaries paid in the year by the corporation;
- (c) either its gross revenue, together with the gross revenue of all associated corporations, or its total assets, together with the total assets of all associated corporations, in the last taxation year ending prior to the date of application under subsection 5 (1) does not exceed \$50,000,000 or such other amount as is prescribed.

R.S.O. 1980,
c. 97

(2) Subject to subsections (3) and (4), for the purposes of subsection (1) and section 10,

Calculation
of gross
revenue
and total
assets

(a) the gross revenue of a corporation in a taxation year is the amount equal to the product of,

(i) the gross revenue of the corporation as disclosed in the financial statements of the corporation for that taxation year prepared in accordance with generally accepted accounting principles, and

(ii) the ratio of 365 to the number of days in the taxation year; and

(b) the total assets of a corporation in a taxation year is the amount equal to the sum of,

(i) the total assets as disclosed in the financial statements of the corporation for that taxation year prepared in accordance with generally accepted accounting principles, and

(ii) the amount by which the value of any asset of the corporation has been written down and deducted from its income or undivided profits where such amount is not deductible in the calculation of its taxable income for the current and all prior taxation years under Part I of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

(3) For the purposes of this section and section 10,

Idem,
associated
corporations

(a) if a corporation is a member of a group of associated corporations during its last taxation year ending before the date of application under subsection 5 (1), the gross revenue of the corporation for the taxation year is the amount by which,

(i) the sum of,

(A) the gross revenue of the corporation determined under clause (2) (a), and

(B) the aggregate of all amounts, each of which is the gross revenue of an associated corporation for its taxation year that ends in the last taxation year of the corporation determined under clause (2) (a),

exceeds,

- (ii) the aggregate of any amounts included in the gross revenue of the corporation or an associated corporation attributable to transactions between the corporations; and
- (b) if a corporation is a member of a group of associated corporations during its last taxation year ending before the date of application under subsection 5 (1), the total assets of the corporation for the taxation year is the amount by which,
 - (i) the sum of,
 - (A) the total assets of the corporation determined under clause (2) (b), and
 - (B) the aggregate of all amounts, each of which is the amount of the total assets of an associated corporation for its taxation year that ends in the last taxation year of the corporation determined under clause (2) (b),

exceeds,

- (ii) the aggregate of,
 - (A) the amounts, if any, included in the total assets of the corporation under subclause (i), representing debts owed at the end of the taxation year to the corporation by an associated corporation and to an associated corporation by the corporation, and
 - (B) the cost to the corporation of any shares of an associated corporation beneficially owned by the corporation at the end of the taxation year and the cost to an associated corporation of any shares of the corporation beneficially owned by the associated corporation at the end of its taxation year.

Idem,
corporations
in
partnership

(4) For the purposes of this section and section 10, a corporation that is a member of a partnership shall include in its gross revenue and in its total assets for a taxation year the percentage of gross revenue and the percentage of the total

assets as disclosed in the financial statements of the partnership for the fiscal period ending in that taxation year prepared in accordance with generally accepted accounting principles that represents the corporation's participation in the profits of the partnership during the fiscal period of the partnership.

4.—(1) Where a corporation intends to deliver an application to register an employee share ownership plan, the corporation shall forward to the Minister, in the prescribed manner, copies of the proposed employee share purchase agreement, the proposed escrow agreement and any other material prescribed to be submitted for review by the Minister.

Where corporation proposes to apply to register plan

(2) The Minister shall forthwith review the proposed agreements and other materials submitted under subsection (1) and advise the corporation whether the agreements and other materials comply with this Act.

Review by Minister

(3) Where employees of the corporation referred to in subsection (1) wish to retain the services of one or more persons to assist the employees in the negotiation, evaluation and implementation of an employee share ownership plan, the employees may make an application in the prescribed form to be certified as an employee group under this Act.

Application for certification as employee group

(4) The Minister shall consider the application made under subsection (3) and may certify those employees as an employee group for the purposes of section 14.

Certification by Minister

(5) Where the Minister has certified employees as an employee group under subsection (4), no further applications may be made under subsection (3).

One employee group only

5.—(1) A corporation may apply to have an employee share ownership plan registered under this Act by delivering to the Minister an application in the prescribed form.

Application for registration of plan

(2) The application shall be accompanied by,

Material to accompany application

(a) the corporation's financial statements for its last taxation year ending prior to the date of application under subsection (1);

(b) a certified copy of the corporation's articles of incorporation and any amendments thereto; and

(c) a true copy of the employee share purchase agreement, the escrow agreement and any other material prescribed to be submitted with the application.

Disentitle-
ment to
registration
of plan

6. A corporation is not entitled to have its employee share ownership plan registered under subsection 7 (1) if,

- (a) the employee share purchase agreement does not comply with subsection 2 (1);
- (b) the escrow agreement does not comply with subsection 2 (2);
- (c) the corporation fails to comply with section 3 or 5; or
- (d) the corporation fails to file any material required by this Act or the regulations.

Registration
of plan and
certificate of
eligibility

7.—(1) Where a corporation satisfies the requirements of this Act, the Minister shall register the corporation's employee share ownership plan and issue a certificate of eligibility in the form prescribed by the Minister.

Register
open
to public
inspection

(2) The Minister shall maintain a register of those eligible corporations who have registered an employee share ownership plan under this Act and the register shall be open for public inspection during normal business hours.

Amendments

8.—(1) Where an eligible corporation proposes to amend its employee share purchase agreement or its escrow agreement or any other prescribed material, it shall forthwith advise the Minister.

Approval,
variation or
rejection by
Minister

(2) Upon receipt of any proposal under subsection (1), the Minister shall forthwith consider such proposal and may approve, vary or reject the proposal, subject to section 17.

Returns

9.—(1) Within 180 days after the end of each taxation year ending after the date of registration under subsection 7 (1), every eligible corporation shall prepare and file with the Minister a return in the prescribed form setting out the information required in such return.

Extension
of time

(2) The Minister may, in his or her discretion, enlarge the time for filing the return required under this section.

Revocation
of
registration
or refusal
to pay grant

10. Subject to section 17, the Minister may revoke the registration of the employee share ownership plan of an eligible corporation or refuse to pay a grant under section 12 where,

- (a) the gross revenue of the eligible corporation, together with the gross revenue of all associated

corporations calculated in accordance with section 3, exceeds \$75,000,000, or such other amount as is prescribed, in a taxation year, and the total assets, together with the total assets of all associated corporations calculated in accordance with section 3, also exceed \$75,000,000, or such other amount as is prescribed, in the same taxation year;

- (b) the eligible corporation ceases to comply with clause 3 (1) (b);
- (c) the eligible corporation, its officers or directors or its shareholders have failed to comply with any provisions of this Act or the regulations or are conducting their business and affairs in a manner that is contrary to the spirit and intent of this Act or for the purpose of obtaining a grant under this Act to which they would not otherwise be entitled;
- (d) the eligible corporation proceeds with any amendments not approved by the Minister under subsection 8 (2); or
- (e) the eligible corporation requests deregistration of its employee share ownership plan.

11.—(1) Where an employee is an eligible employee under subsection (2) and complies with the provisions of this Act, the Minister may make a grant under section 12 to the eligible employee upon application therefor.

Grant to
eligible
employee

(2) An employee shall be an eligible employee if,

Where
employee
is eligible
employee

- (a) the employee was resident in Ontario on the last day of the previous calendar year and on the date the eligible corporation issues employee shares to the employee; and
- (b) the employee has been employed by the eligible corporation during the six months prior to the issue of employee shares to him or her under clause (3) (b).

(3) No grant shall be paid unless,

Condition of
payment
of grant

- (a) the eligible employee has applied to the eligible corporation to purchase employee shares of the eligible corporation in accordance with the employee share purchase agreement;

- (b) the eligible corporation has issued such employee shares in the name of the eligible employee and the shares are held in escrow by the administrator;
- (c) the eligible employee has fully paid for the employee shares; and
- (d) the employee shares are newly issued by the eligible corporation.

Idem

(4) No grant shall be paid where,

- (a) the purchaser of any employee shares is a specified shareholder of the eligible corporation;
- (b) the purchase of any employee share entitles the holder thereof to claim a credit against or deduction from income or income tax under the *Income Tax Act* (Canada);
- (c) the purchase of any employee share entitles the holder thereof to apply for a grant under the *Small Business Development Corporations Act*; or
- (d) the proceeds from the purchase of any employee share will be used to qualify the holder thereof for a grant under the *Ontario Mineral Exploration Program Act*.

R.S.C. 1952,
c. 148R.S.O. 1980,
c. 475R.S.O. 1980,
c. 346Grants to
eligible
employees

12.—(1) An eligible employee may make an application in the prescribed form for a grant and, subject to section 11 and this section, the Minister may pay a grant equal to the lesser of,

- (a) \$300; and
- (b) 15 per cent of the cost to the eligible employee of employee shares purchased by the eligible employee from the eligible corporation in the calendar year.

Time of
application

(2) No grant shall be paid under subsection (1) unless application therefor is received by the Minister within three years of the date of issue of the employee shares.

Material to
accompany
application

(3) An application under subsection (1) shall be accompanied by,

- (a) an investment confirmation certificate in the prescribed form signed by the secretary and one other authorized signing officer of the eligible corporation

that issued the employee shares in respect of which an application for a grant is being made; and

(b) any additional prescribed material.

(4) Where an applicant for a grant under subsection (1) has previously held and disposed of,

Calculation of cost where shares previously held disposed of, etc.

(a) common shares of the eligible corporation within six months prior to the purchase of the employee shares from the eligible corporation; or

(b) employee shares of the eligible corporation with respect to which a grant was paid under this Act which has not been repaid under subsection 15 (1),

the cost to the applicant of the employee shares for the purposes of clause (1) (b) shall be deemed to be the amount by which the cost of the employee shares determined without reference to this subsection exceeds the aggregate of the net proceeds of disposition received or receivable by the applicant on the disposition of all shares referred to in clause (a) or (b).

13.—(1) An eligible corporation may make an application to the Minister for a grant and the Minister may pay to the corporation a grant equal to the lesser of,

Grants to eligible corporations

(a) \$10,000; and

(b) one-third of the outlays and expenses as prescribed incurred by the eligible corporation to establish an employee share ownership plan.

(2) No grant shall be paid under subsection (1) unless application therefor is made within one year of the date of issue to the corporation of the certificate of eligibility under subsection 7 (1).

Time of application

(3) Where the Minister has made a grant under subsection (1), no further applications may be made by the eligible corporation under this section.

One grant only

14.—(1) An employee group may make an application to the Minister for a grant and the Minister may pay to the employee group a grant equal to the lesser of,

Grants to employee groups

(a) \$5,000; and

(b) one-half of the outlays and expenses as prescribed incurred in advising employees in the negotiation,

evaluation and implementation of an employee share ownership plan.

Time of application

(2) No grant shall be paid under subsection (1) unless application therefor is made within one year of the date of issuance of the certificate of eligibility to the eligible corporation under subsection 7 (1).

One grant only

(3) Where the Minister has made a grant under subsection (1), no further applications may be made by the employee group under this section.

Repayment of grant when shares disposed of

15.—(1) Subject to section 17 and other than in the case of an involuntary disposition prescribed, an eligible employee who disposes of employee shares in respect of which a grant was paid under section 12 within two years from the date of purchase of the employee shares shall repay to the Minister the lesser of,

(a) an amount equal to the grant paid in respect of those employee shares to such eligible employee; and

(b) the amount determined by the prescribed formula.

Amounts paid to Treasurer

(2) All amounts payable to the Minister under subsection (1) shall be retained by the administrator from the proceeds of sale of the employee shares and shall be remitted to the Treasurer of Ontario at the time and in the manner prescribed.

Repayment of grants to which not entitled

16.—(1) Subject to section 17, where a person receives or obtains a grant under this Act to which that person was not entitled or receives or obtains the payment of any amount in excess of the amount of grant to which that person was entitled, the amount of the grant or excess payment, as the case may be, shall be deemed to be a debt due to the Crown and shall be paid forthwith by the person to the Minister.

Demand for repayment

(2) Where the Minister determines that any amount is repayable under subsection (1), the Minister shall, when requesting repayment thereof, serve on the person a demand for repayment together with the reasons therefor.

Recovery

(3) Where a person liable to make a payment under subsection (1) fails to make the payment to the Minister, the amount of the debt may be recovered in any court of competent jurisdiction in proceedings commenced by the Minister at any time.

(4) Notwithstanding subsection (1), if owing to special circumstances it is deemed inequitable to demand the whole amount due under this section, the Minister may accept such lesser amount as he or she considers proper.

Acceptance
of lesser
amount

17.—(1) Where the Minister proposes,

Notice of
proposal
by Minister

- (a) to refuse to certify an employee group under subsection 4 (4);
- (b) to refuse to register an employee share ownership plan under subsection 7 (1);
- (c) to vary or reject an amendment under subsection 8 (2);
- (d) to revoke registration under section 10;
- (e) to refuse to make a grant under subsection 12 (1), 13 (1) or 14 (1); or
- (f) to require repayment under subsection 15 (1),

the Minister shall serve notice of the proposal, together with written reasons therefor, on the applicant, registrant, corporation, employee group, eligible employee or other person, as the case may be.

(2) If the Minister fails to register the employee share ownership plan of a corporation under section 7 within six months of application therefor under subsection 5 (1), the Minister shall be deemed to have refused to register the employee share ownership plan for the purposes of clause (1) (b).

Deemed
refusal of
registration

(3) Where a person objects to a proposal under subsection (1) or a demand for repayment under subsection 16 (2) that is served on that person, the person may, within sixty days from the day of mailing of the proposal or demand or from the date upon which the Minister has been deemed to have refused registration under subsection (2), serve on the Minister a notice of objection in the prescribed form setting out the reason for the objection and all relevant facts.

Notice of
objection

(4) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister, but the Minister may accept a notice of objection that was not served in the manner required.

Service
of notice

Where no
notice served

(5) Where no notice is served under subsection (4), the Minister may proceed to carry out the proposal under subsection (1) or recover the debt stated in the demand under subsection 16 (2).

Reconsider-
ation by
Minister

(6) Upon receipt of the notice of objection, the Minister shall forthwith reconsider the proposal or demand and may confirm, vary or abandon such proposal or demand, and the Minister shall thereupon notify the person making the objection of such action by registered mail.

Where no
appeal

(7) A decision of the Minister under subsection (6) is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law.

Surrender of
certificate of
eligibility

(8) Where no notice was served under subsection (4) or where the Minister's proposal was confirmed under subsection (6), subject to section 18, the eligible corporation shall surrender the certificate of eligibility issued to it under subsection 7 (1).

Application
to judge
where facts
undisputed

18. In any dispute over a decision or action of the Minister under subsection 17 (6), the Minister may, where the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to a judge of the Supreme Court to have the issue in dispute determined and, if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

Communi-
cation of
information

19.—(1) Except as provided in subsection (2), no person employed in the Government of Ontario shall,

- (a) knowingly communicate or allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) knowingly allow any person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

Exception

(2) Notwithstanding anything in this Act, the Minister may permit information or a copy of any book, record, writing,

return or other document obtained by the Minister or on his or her behalf for the purposes of this Act to be given to,

- (a) any official or authorized person employed by the Government of Ontario in the administration and enforcement of this Act;
- (b) the Minister of National Revenue of the Government of Canada or any official or employee employed under that Minister;
- (c) the Treasurer of Ontario and the Minister of Industry, Trade and Technology of the Government of Ontario and any official or employee employed under the Treasurer or Minister; or
- (d) the Ontario Securities Commission or any official employed by the Commission.

20.—(1) Every eligible corporation, administrator and employee group under this Act shall keep such records as may be prescribed by the Minister at its permanent establishment in Ontario, as defined in the *Corporations Tax Act*, or place of business in Ontario, as the case may be, or at such other place of business as is designated by the Minister, in the form and containing such information as will enable the Minister to determine that this Act and the regulations have been complied with.

Records

R.S.O. 1980,
c. 97

(2) Where an eligible corporation, administrator or employee group has failed to keep adequate records for the purposes of this Act, the Minister may require the eligible corporation, administrator or employee group to keep such records as may be so required.

Idem

(3) Every eligible corporation, administrator or employee group required by this section to keep records shall, until permission for their disposal is given by the Minister, retain every such record and every account or voucher necessary to verify the information in any such record.

Retention
of records

21.—(1) Any person thereunto authorized by the Minister for any purpose relating to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or records are or should be kept pursuant to this Act, and,

Investi-
gations

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other docu-

ment that relates or may relate to the information that is or should be in the books or records or to the amount of any grant paid or payable under this Act;

- (b) examine any property, process or matter an examination of which may, in his or her opinion, assist such person in determining the accuracy of any application required by this Act or in ascertaining the information that is or should be in the books and records or in such application, or the amount of any grant paid or payable under this Act; and
- (c) require any person on the premises to give him or her all reasonable assistance with the audit or examination and to answer all questions relating to the audit or examination either orally or, if so required, in writing, on oath or statutory declaration and, for that purpose, require such person to attend at the premises or place with him or her.

Information

(2) The Minister may, for any purpose relating to the administration and enforcement of this Act, by registered letter or by a demand served personally, require from any eligible corporation or from the president, manager, secretary or any director, agent or representative thereof, or from any other person,

- (a) any information or additional information or a return under section 9 or other return required by the regulations; or
- (b) production, or production on oath, of books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may, by registered letter or a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by any agent or officer thereof, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation, or of any agent or officer thereof, for the purpose of determining eligibility or possible eligibility for a grant under this Act, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

(4) Where a book, record or other document has been examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or by a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had had it been proven in the ordinary way. Copies

(5) No person shall hinder, molest or interfere with any person doing anything that he or she is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he or she is unable to do so, do everything he or she is required by this section to do. Compliance

(6) Any officer or employee of the Ministry of Revenue who is authorized by the Minister may administer oaths and take or receive affidavits, declarations and affirmations for the purpose of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits. Adminis-
tration of
oaths

22.—(1) Every person who fails to deliver a return or report as and when required by this Act or the regulations is guilty of an offence and, in addition to any other penalty otherwise provided, on conviction is liable to a fine of not less than \$50 for each day during which the default continues. Offences

(2) Every person who fails to comply with or contravenes section 20 or 21 is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of \$50 for each day during which the default continues. Idem

23. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. Officers,
etc., of
corporations

24.—(1) Every person who, Offences

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a

return, certificate, statement or answer filed or made as required by or under this Act or the regulations;

- (b) knowingly failed to disclose any information that is required to be disclosed and by reason thereof obtained the payment of a grant under this Act to which he or she was not entitled or to which the person on whose behalf he or she was acting was not entitled;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records required to be maintained under this Act;
- (d) knowingly converted to his or her own use a payment of a grant under this Act to which he or she was not entitled; or
- (e) conspires with any person to commit an offence described in clauses (a) to (d),

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000.

Exception

(2) No person is guilty of an offence under subsection (1) if he or she did not know that the statement was false or misleading and in the exercise of due diligence could not have known that the statement was false or misleading.

Limitation

25. Proceedings in respect of an offence against this Act may be commenced not later than six years after the time the subject matter of the proceedings arose.

Regulations:
by
Lieutenant
Governor in
Council

26.—(1) The Lieutenant Governor in Council may make regulations,

- (a) authorizing or requiring the Deputy Minister or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act or the regulations;
- (b) prescribing additional terms and conditions to be included in an employee share purchase agreement and an escrow agreement;

- (c) prescribing any amount that is greater or lesser than the amount set out in clause 3 (1) (c) or 10 (a);
 - (d) providing for the forwarding of draft agreements and other materials to the Minister under subsection 4 (1);
 - (e) prescribing additional material to be included in an application under sections 5 and 12;
 - (f) providing for the annual filing of a return by an administrator;
 - (g) prescribing the outlays and expenses referred to in clauses 13 (1) (b) and 14 (1) (b);
 - (h) prescribing the circumstances or situations of involuntary dispositions in which an eligible employee will not be required to repay a grant made under section 12 for the purposes of subsection 15 (1);
 - (i) prescribing the time and manner of the remitting of amounts withheld by an administrator under subsection 15 (2);
 - (j) prescribing the formula to be used in determining the amount of any repayment under clause 15 (1) (b), in lieu of the amount of the repayment referred to in clause 15 (1) (a);
 - (k) defining any word or expression in this Act or the regulations that has not already been expressly defined herein;
 - (l) providing for the payment of interest on any amount repayable under subsection 15 (1).
- (2) The Minister may make regulations, by Minister
- (a) prescribing any form, return or statement to be made under this Act or the regulations or that, in the Minister's opinion, will assist in the administration of this Act, and prescribing how and by whom any form, return or statement shall be completed and what information it shall contain;
 - (b) prescribing, defining or determining anything the Minister is permitted or required by this Act to prescribe, define or determine;

- (c) prescribing for the purposes of this Act and the regulations the records to be maintained by an eligible corporation, an administrator or an eligible group.

may be
retroactive

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.

Commence-
ment

27. This Act shall be deemed to have come into force on the 1st day of January, 1987.

Short title

28. The short title of this Act is the *Employee Share Ownership Plan Act, 1987*.

Bill 211

An Act to amend the Public Transportation and Highway Improvement Act

The Hon. E. Fulton

Minister of Transportation and Communications

1st Reading February 12th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The section is rewritten to provide basically that a county council, as a whole, may sit as a county road system committee.

SECTION 2. Section 47 of the Act sets out that payment pertaining to a county road system shall be made on approval of the road committee as certified by the chairman. The provision as rewritten permits the council to approve the payment.

SECTION 3. Subsection 63 (1) of the Act authorizes a county to regulate the activities set out in the clauses. Two new clauses are added. Subsection 63 (2) is rewritten so that the wording corresponds to the added clauses.

SECTION 4. Section 90 of the Act deals with the designation of development roads controlled by towns, villages in a territorial district or townships. The phrase "village in a territorial district" is replaced by "village".

Bill 211

1987

An Act to amend the Public Transportation and Highway Improvement Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 45 of the *Public Transportation and Highway Improvement Act*, being chapter 421 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

45.—(1) Where a county road system is established under this Part, the county council shall, County road system committee

- (a) act as a committee of the whole; or
- (b) appoint by by-law from three to ten residents of the county, who need not be members of the council, to constitute a committee,

to direct the work to be done on the county road system.

(2) If a committee is constituted under clause (1) (b), the council, subject to subsection (3), may by by-law, Idem

- (a) regulate the term of office, reappointment, removal from office and the filling of any vacancy; and
- (b) assign executive powers considered appropriate for the effective operation of the committee.

(3) A committee constituted under clause (1) (b) shall be set up so that, Staggered terms

- (a) other than a committee consisting of four members, not less than one-third of the members are appointed to hold office for a term of three years, not less than one-third of the members are appointed to hold office for a term of two years and

the remaining members are appointed to hold office for a term of one year; or

- (b) for a committee consisting of four members, one member is appointed to hold office for a term of three years, one member is appointed to hold office for a term of two years and two members are appointed to hold office for a term of one year,

and thereafter all members shall be appointed for a term of three years.

Re-
appointment

(4) Every member of the committee is eligible for re-appointment upon the expiry of his or her term of office.

Warden
member

(5) The warden of the county is *ex officio* a member of the committee and may sit and vote thereon.

2. Section 47 of the said Act is repealed and the following substituted therefor:

Payment,
how
to be made

47. No money shall be disbursed pertaining to the county road system except by the county treasurer on the certificate of the county road superintendent approved by the county council and certified in writing by the warden of the county or by the committee appointed to direct the work to be done on the county road system as certified in writing by the chairman thereof.

3.—(1) Subsection 63 (1) of the said Act is amended by striking out “and” at the end of clause (a) and by adding thereto the following clauses:

- (c) the construction or alteration of any private road, entranceway, gate or other structure or facility that permits access to a road; and
- (d) any change in use of any private road, entranceway, gate or other structure or facility that permits access to a road.

(2) Subsection 63 (2) of the said Act is repealed and the following substituted therefor:

Permits

(2) A by-law passed under this section may provide for the issuing of a permit for any of the acts that may be regulated under this section and may prescribe the form, terms and conditions of the permit and the fees to be paid for it, and may prescribe penalties for contravention of the by-law.

4. Subsection 90 (1) of the said Act is amended by striking out “or village in a territorial district or of a” in the third and fourth lines and inserting in lieu thereof “village or”.

5. This Act comes into force on the day it receives Royal Assent. Commence-
ment

6. The short title of this Act is the *Public Transportation and Highway Improvement Amendment Act, 1987*. Short title



Bill 212

An Act to amend the Game and Fish Act

Mr. Bernier

1st Reading February 12th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is twofold.

First, it will enshrine in legislation the establishment of a publicly appointed "Fish Advisory Council".

The Council would have the powers to advise the Ministry in its fish management program and would oversee the development and administration of an enhanced fish management program, which follows a statement made by the Minister that "most" of the funds raised through the sale of the new Ontario Resident Fishing licences would be used for such a program.

The amendment will guarantee the anglers of Ontario that these new funds, expected to total around \$10 million, will indeed be spent on fish management.

Second, it will provide for a system of permanent identification numbers for resident hunters by requiring residents to obtain a Resident Hunter Number Card before being issued a licence under the *Game and Fish Act*.

It will put into place the following requirements:

1. To provide hunter identification and proof that licence applicants meet licensing requirements.
2. To reduce the cost of key entry services for all computerized data systems that incorporate hunter identification.
3. To provide a complete, up-to-date mailing list of all licensed hunters for annual harvest surveys.
4. To provide a key link between data systems relating to hunter effort and harvest.
5. To provide enforcement staff with licensing information on individual sportsmen.

Bill 212

1987

An Act to amend the Game and Fish Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Game and Fish Act*, being chapter 182 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

16a.—(1) In this section, “Council” means the Fish Advisory Council. Definition

(2) There shall be established a Fish Advisory Council, to be composed of no fewer than six and no more than twelve members. Fish
Advisory
Council

(3) The members of the Council shall be appointed by the Lieutenant Governor in Council for such term as the Lieutenant Governor in Council determines and shall be representative of persons from each of the regions of Ontario. Members

(4) The members of the Council shall elect from among its members one person to be presiding officer and another person to be deputy presiding officer. Presiding
officer

(5) The remuneration and expenses of the members of the Council shall be determined by the Lieutenant Governor in Council and shall be paid out of the moneys appropriated therefor by the Legislature. Remunera-
tion and
expenses

(6) The Council may make rules and pass resolutions governing its procedure, including the calling of meetings, the establishment of a quorum and the conduct of meetings. Powers of
Council

(7) It is the function of the Council and it has power to advise the Ministry in its fish management program and to oversee the development and administration of an enhanced fish management program. Idem

Annual
report

(8) The Council shall file annually with the Minister a report upon its affairs for the preceding year.

Idem

(9) The Minister shall submit the report to the Lieutenant Governor in Council who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Resident
Hunter
Number Card

36a.—(1) No person shall issue a licence to a resident under this Act unless the resident has applied to the Ministry for and received a Resident Hunter Number Card.

Idem

(2) The Ministry shall issue a Resident Hunter Number Card to every resident who applies therefor as prescribed, who, apart from this section, is eligible to receive a licence under this Act and who,

- (a) has successfully completed a hunter training course approved by the regulations; or
- (b) has previously held a licence under this Act.

2. Section 92 of the said Act is amended by adding thereto the following paragraphs:

55a. governing the issue, form, renewal and replacement of Resident Hunter Number Cards and prescribing their durations and the fees payable therefor;

55b. respecting the establishment and requirements of hunter training courses for the purpose of section 36a and respecting the terms and conditions upon which hunter training courses not given under the authority of this Act shall be approved.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Game and Fish Amendment Act, 1987*.

Bill 213

*(Chapter 15
Statutes of Ontario, 1987)*

**An Act for granting to Her Majesty
certain sums of money for the Public Service
for the fiscal year ending the 31st day of March, 1987**

The Hon. R. Nixon
Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	February 12th, 1987
<i>2nd Reading</i>	February 12th, 1987
<i>3rd Reading</i>	February 12th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 213

1987

**An Act for granting to Her Majesty
certain sums of money for the Public Service
for the fiscal year ending the 31st day of March, 1987**

MOST GRACIOUS SOVEREIGN:

Whereas it appears by messages from the Honourable Lincoln Alexander, Lieutenant Governor of the Province of Ontario, and from the estimates and supplementary estimates accompanying the same, that the sums mentioned in the Schedule to this Act are required to defray certain charges and expenses of the public service of this Province, not otherwise provided for, for the fiscal year ending the 31st day of March, 1987; may it therefore please Your Majesty that it be enacted and it is hereby enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows:

1.—(1) There may be paid out of the Consolidated Revenue Fund a sum not exceeding in the whole \$21,727,271,100 to be applied towards defraying the several charges and expenses of the public service, not otherwise provided for, from the 1st day of April, 1986, to the 31st day of March, 1987, as set forth in the Schedule to this Act, and, subject to subsection (2), such sum shall be paid and applied only in accordance with the votes and items of the estimates and supplementary estimates upon which the Schedule is based.

\$21,727,271,100
granted for
fiscal year
1986-87

(2) Where, in the fiscal year ending the 31st day of March, 1987, powers and duties are assigned and transferred from one minister of the Crown to another minister of the Crown, the appropriate sums in the votes and items of the estimates and supplementary estimates upon which the Schedule is based that are approved to defray the charges and expenses of the public service in the exercise and performance of such powers and duties, may be assigned and transferred from time to time as required by certificate of the Management Board of Cabinet to the ministry administered by the minister to whom the powers and duties are so assigned and transferred.

Exception

Accounting
for
expenditure

2. The due application of all moneys expended under this Act shall be accounted for to Her Majesty.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Supply Act, 1987*.

SCHEDULE

	ESTIMATES	SUPPLEMENTARY ESTIMATES	TOTAL
	\$	\$	\$
Agriculture and Food.....	338,334,000	62,953,300	401,287,300
Attorney General.....	246,337,000	2,007,900	248,344,900
Cabinet Office.....	6,228,000		6,228,000
Citizenship and Culture.....	169,920,500	29,536,000	199,456,500
Colleges and Universities.....	1,776,796,800	93,245,000	1,870,041,800
Community and Social Services.....	2,463,756,900	91,322,200	2,555,079,100
Consumer and Commercial Relations.....	82,596,400	9,187,500	91,783,900
Correctional Services.....	250,509,200		250,509,200
Education.....	2,147,286,700	184,085,000	2,331,371,700
Energy.....	36,250,200		36,250,200
Environment.....	289,915,100	6,670,000	296,585,100
Financial Institutions.....	19,177,200		19,177,200
Government Services.....	364,719,100	2,200,000	366,919,100
Health.....	8,008,454,100	188,776,900	8,197,231,000
Housing.....	276,643,800	3,041,600	279,685,400
Industry, Trade and Technology.....	191,947,200	9,454,000	201,401,200
Intergovernmental Affairs.....	4,817,800		4,817,800
Labour.....	73,138,300	2,858,900	75,997,200
Management Board.....	185,233,700		185,233,700
Municipal Affairs.....	486,962,800	18,714,800	505,677,600
Natural Resources.....	374,115,400	36,060,000	410,175,400
Northern Development and Mines.....	157,081,400	27,169,000	184,250,400
Office of the Assembly.....	67,251,500	6,677,400	73,928,900
Office of the Chief Election Officer.....	359,600	22,900	382,500
Office Responsible for Disabled Persons.....	1,418,800		1,418,800
Office of the Lieutenant Governor.....	382,000		382,000
Office Responsible for Native Affairs.....	1,260,000		1,260,000
Office of the Ombudsman.....	5,261,700	100,000	5,361,700
Office of the Premier.....	1,449,100		1,449,100
Office of the Provincial Auditor.....	4,771,200	465,000	5,236,200
Office Responsible for Senior Citizens Affairs.....	3,286,900		3,286,900
Office Responsible for Women's Issues.....	8,342,000		8,342,000
Revenue.....	490,898,800		490,898,800
Skills Development.....	347,118,900	34,320,000	381,438,900
Solicitor General.....	280,709,900		280,709,900
Tourism and Recreation.....	113,971,300	20,424,300	134,395,600
Transportation and Communications.....	1,403,211,000	41,350,000	1,444,561,000
Treasury and Economics.....	176,715,100		176,715,100
TOTAL	20,856,629,400	870,641,700	21,727,271,100

